

# **REQUEST FOR PROPOSALS**

FOR

## **Beach Stand Operations**

AT

## **Huntington and Calafia portion of San Clemente State Beaches**

Opening Date  
September 16, 2008

Closing Date  
November 18, 2008

STATE OF CALIFORNIA – RESOURCES AGENCY  
DEPARTMENT OF PARKS AND RECREATION  
CONCESSIONS DIVISION  
1416 NINTH STREET, 14<sup>TH</sup> FLOOR  
SACRAMENTO, CA 95814

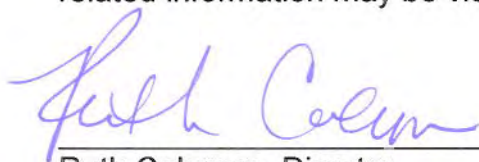


## NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that the California Department of Parks and Recreation now is accepting proposals for the concession operation described below.

|  |  |
|--|--|
| Concession Name:                                       | Beach Stands   |
| Park Unit:   | Huntington and Calafia portion of San Clemente State Beaches   |
| Proposal Closing Time & Date:                          | 2 p.m. on November 18, 2008  |
| Proposal Submission Location:                          | Concessions and Reservations Division<br>1416 Ninth Street, #1442-13<br>Sacramento, CA 95814   |
| Concession Type:                                       | Beach stands and equipment rentals   |
| Contract Term:   | Ten (10) years   |
| Minimum Annual Rent Bid for Huntington SB:             | Thirty five thousand dollars (\$35,000) or sixteen percent (16%) of gross receipts, and eight percent (8%) for optional catering, whichever is greater |
| Minimum Annual Rent Bid for Calafia:                   | Twenty thousand (\$20,000) or 12% of gross receipts, and six percent (6%) for optional catering, whichever is greater                                  |
| Proposal Bond (due at time of proposal submission):    | Five thousand dollars (\$5,000) for each location  |
| Performance Bond (due at time of Contract submission): | One year's minimum annual rent as bid for each location  |
| Proposer's Minimum Years of Relevant Experience:       | Three (3) years  |
| Optional Pre-Proposal Meeting:                         | Thursday, September 25, 2008   |

For more information or to purchase a copy of the complete RFP for \$50, contact Jim Pine at the Concessions, Reservations and Fees Division, 916-653-6817. The RFP and related information may be viewed on line at [www.parks.ca.gov/concessions](http://www.parks.ca.gov/concessions).



Ruth Coleman, Director

## TABLE OF CONTENTS

|  |           |
|--|-----------|
| <b>NOTICE OF REQUEST FOR PROPOSALS</b>                                   | <b>I</b>  |
| <b>SECTION 1 - PROJECT SUMMARY</b>                                       | <b>1</b>  |
| 1.1 GOAL & OBJECTIVES  | 1         |
| <i>Department Mission</i>  | 1         |
| <i>Park Purpose</i>  | 1         |
| <i>Goal of this Request for Proposals (RFP)</i>                          | 1         |
| <i>Objectives of this Concession</i>                                     | 2         |
| 1.2 GENERAL INFORMATION  | 2         |
| <i>Site Description-Huntington</i>                                       | 2         |
| <i>Site Description-Calafia</i>  | 2         |
| <i>Current Concession Operation</i>                                      | 3         |
| <i>Former Concession Operation</i>                                       | 3         |
| 1.3 CONTRACT SUMMARY   | 4         |
| <b>SECTION 2 - THE RFP PROCESS</b>                                       | <b>6</b>  |
| 2.1 PROPOSAL PROCESS   | 6         |
| <i>Tentative Proposal Dates</i>  | 6         |
| <i>Optional Pre-Proposal Meeting</i>                                     | 6         |
| <i>RFP Content Questions</i>   | 6         |
| <i>Proposal Bond</i>   | 7         |
| <i>Proposal Submission</i>   | 7         |
| <i>Proposal Format &amp; Content</i>                                     | 7         |
| <i>Confidentiality of Proposals</i>                                      | 8         |
| <i>Withdrawal of Proposals</i>   | 8         |
| 2.2 EVALUATION PROCESS   | 8         |
| <i>Verification of Proposal Information</i>                              | 8         |
| <i>State's Right to Reject Proposals, Waive Defects and Requirements</i> | 8         |
| <i>Supplemental Information</i>  | 9         |
| <i>Proposal Evaluation</i>   | 9         |
| <i>Contract Award Board</i>  | 9         |
| <i>Contract Award</i>  | 9         |
| <i>Protest of Award</i>  | 9         |
| 2.3 CONTRACT EXECUTION   | 10        |
| <i>Preparation of Contract</i>   | 10        |
| <i>Performance Bond and Insurance</i>                                    | 10        |
| <i>Failure to Sign/Deliver Contract</i>                                  | 11        |
| RETURN OF PROPOSER'S BOND  | 11        |
| <b>SECTION 3 - THE PROPOSAL</b>  | <b>12</b> |
| 3.1 INSTRUCTIONS FOR THE CONCESSION PROPOSAL                             | 12        |
| I. PROPOSER INFORMATION  | 12        |
| II. PROPOSAL INFORMATION   | 15        |
| III. PROPOSAL SUMMARY  | 19        |
| IV. CERTIFICATION OF PROPOSER INFORMATION                                | 19        |
| V. PRIVACY NOTICE  | 20        |
| 3.3 PROPOSAL EVALUATION SHEET  | 24        |
| 3.4 CONCESSION PROPOSAL, DPR 398   | 26        |
| <b>SAMPLE CONCESSION CONTRACT</b>  | <b>27</b> |

## SECTION 1 - PROJECT SUMMARY

### 1.1 GOAL & OBJECTIVES

#### **Department Mission**

The mission of the California Department of Parks and Recreation is to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation.

#### **Park Purpose**

The purpose of Huntington and Calafia portion of San Clemente State Beaches is to make possible the public use and enjoyment of the beach and ocean, and to maintain and improve the park's beach, picnic, camping, and public educational facilities. These activities are to be conducted in a manner that is compatible with nearby existing land uses, promotes public safety and accessibility for all park visitors, minimizes adverse effects on water quality in the ocean and creeks, and preserves the park's natural and cultural resources.

#### **Goal of this Request for Proposals (RFP)**

The goal of this RFP is to award two ten (10) year contracts to qualified operator(s) to improve, equip, operate, and maintain three (3) beach stands at Huntington SB and one (1) beach stand at the Calafia portion of San Clemente SB. Interested proposers may bid on either or both of the Huntington and Calafia concession operations.

The RFP solicits each proposers' plan for (1) the growth potential of this concession property, (2) the concession operations and services, and (3) the strategy for enhancing and improving this high quality outdoor recreation environment.

Listed below are some ideas for this project.

- Renovate the concession buildings and adjoining plazas with new colors, and patio furniture.
- Provide shade, such as market umbrellas or palapas, in the plaza area so to increase the dining pleasure of the visitor.
- Enhance services to facilitate beach visitor access.
- Facilitate weekend and holiday barbecues.
- Develop and organize Special Event activities with optional catering services.
- Expand the merchandise sales, possibly including State Park Store items, "designer" quality T shirts, caps, visors, bathing suits, towels, and custom photographed postcards.
- Expand the equipment rental to include such items as bikes, skates, umbrellas, beach chairs, bogey boards, volleyballs, and other appropriate equipment which will enhance the visitor's experience.



- Enhance the landscaping with drought resistant, native plants surrounding all concession stands
- Create attractive signage with DPR input for all concession beach stands.

### **Objectives of this Concession**

The objectives of this concession opportunity are to:

- Provide quality products and services at reasonable prices to park visitors.
- Contribute to the Department's mission to "provide for the health" of Californians by promoting the importance of healthy, locally and sustainably grown, organic foods.
- Improve the overall condition of the concession facilities.
- Promote and compliment safe, enjoyable, and high-quality recreational experiences for all park users.

## **1.2 GENERAL INFORMATION**

### **Site Description-Huntington**

Huntington State Beach is located within the city limits of Huntington Beach. The beach extends from Beach Boulevard southerly along the coast to the Santa Ana River, a distance of 11,000 feet. There are three entrance gates, located adjacent and upcoast of the concession stands. The Magnolia entrance is open all year round while the other entrances are opened and staffed depending on the time of year, weather and funding availability. There is a fee for vehicles entering the park.

Some enroute camping may be permitted from time to time. However, the beach is predominantly for day use. The beaches have several fire-rings. Visitation is heaviest from May to September of each year and is directly dependent upon the weather conditions.

The State completed construction of the four beach stand concession facilities in 1985. They are situated equidistance from each other along the north to south axis of the beach. The interiors are set up for food and beach sundries sales and rentals.

The successful proposer must furnish all the equipment necessary to provide services required under this contract. All equipment in the existing concession is the property of the present concessionaire.

A detailed discussion of the park, its natural and cultural features, and future plans for its development and operation can be found in the 1976 General Plan and Environmental Impact Report. This report can be viewed on the Department's web site at [www.parks.ca.gov](http://www.parks.ca.gov). To receive a hard copy, please contact Jim Pine at 916-653-6817 or [jpine@parks.ca.gov](mailto:jpine@parks.ca.gov).

### **Site Description-Calafia**

Calafia Beach is located within San Clemente State Beach on the south end of the city of San Clemente in Orange County. In 1988, the State of California, City of San

Clemente and the County of Orange entered into a three party agreement which facilitated the development of the public facilities and the City's operation of Calafia Beach for 20 years. This agreement expired February 28, 2008 and the State resumed management responsibility.

This popular beach location includes an ocean-view park, 210 parking spaces, a public restroom, outdoor shower facility and a concession stand formerly operated as Schleppy's.

The successful proposer must furnish all the equipment necessary to provide services required under this contract.

#### **Current Concession Operation**

The current concession operation at Huntington State Beach is on a ten-year (10) contract that expired July 31, 2008. The current rental requirement is thirty five thousand (\$35,000) annually or eighteen (18%) percent of gross receipts, whichever is greater:

Gross sales and rent for the last four years as reported by the concessionaire is as follows:

| <u>Fiscal Year</u> | <u>Gross Receipts</u> | <u>Rent to State</u> | <u>Annual Visitation</u> |
|--------------------|-----------------------|----------------------|--------------------------|
| 2003/04            | \$142,388             | \$25,630             | 2,750,682                |
| 2004/05            | \$329,602             | \$59,315             | 3,062,714                |
| 2005/06            | \$301,164             | \$54,769             | 2,899,770                |
| 2006/07            | \$281,014             | \$50,383             | 3,711,596                |

#### **Former Concession Operation**

The former concession operation at Calafia Beach was contracted by the City of San Clemente. The rental requirement was thirteen percent (13%) of gross receipts.

Visitation for Calafia is not available. Gross sales and rent as reported by the City of San Clemente for the past three years of concession operation is as follows:.

| <u>Fiscal Year</u> | <u>Gross Receipts</u> | <u>Rent to City</u> |
|--------------------|-----------------------|---------------------|
| 2004/05            | \$ 49,095             | \$ 6,382            |
| 2005/06            | \$ 99,975             | \$12,997            |
| 2006/07            | \$172,488             | \$22,423            |

**NOTE:** The preceding is for general information only; the State does not guarantee its accuracy. It is recommended that proposers personally investigate the premises and park environs.

### 1.3 CONTRACT SUMMARY

It is critical that proposers be familiar with and understand all the terms and conditions of the Sample Concession Contract (included herein). Your proposal should be based on the requirements of this contract in its entirety. If a proposer is awarded the contract, the successful proposer has 30 days to review and sign the awarded contract. The successful proposer shall be expected to accept the provisions of the Sample Concession Contract as written. If necessary, minor clarifications, approved by staff counsel, the Department of General Services, and the Attorney General, may be made prior to contract execution. The intent of the contract is to provide the public with high-quality, reasonably priced goods and services in an authentic manner and atmosphere that enhances the visitor's experience and the natural, cultural and educational resources of the park. The term of the contract(s) is for a period of ten (10) years.

Summary descriptions of some of the important contract provisions are described below.

**At a minimum, the successful proposer for each location will be required to:**

1. Equip, operate, and maintain beach concession stands offering hot and cold foods, beverages, beach and camping sundries, the sale and rental of beach equipment, and optional catering services. At a minimum, sale items shall include drinking water and sunscreen. There will be three (3) beach concession stands at Huntington SB located at the following street ends: Brookhurst Street, Magnolia Street and Beach Blvd. Calafia has one (1) concession stand with a public restroom and shower facility.
2. Maintain the minimum hours of operation as required by the contract. In the event of adverse weather or other operating conditions, State may permit the concession to close at any time during the term of this contract.
3. Pay as annual rent the amount presented in the proposal, which, at a minimum, shall be the greater of thirty-five thousand dollars (\$35,000) or sixteen percent (16%) of Gross Sales and eight percent (8%) of Gross Sales for Optional Catering at Huntington SB and twenty thousand dollars (\$20,000) or twelve percent (12%) of Gross Receipts and six percent (6%) of Gross Sales for Optional Catering at Calafia.
4. Complete facility improvements to enhance the visitor use and comply with ADA requirements as identified in the Sample Contract Section 10, Construction and Completion of Improvements, and Exhibit I.
5. Provide an Operation Plan, Facility Plan, and Interpretive Plan, as specified in Proposal Instructions that clearly demonstrate the proposer's plan to provide high quality facilities and services. The plans will become part of the contract subject to State review and approval.

6. Maintain the premises, facilities, furnishings, and equipment in good condition in accordance with Department standards and contract provisions.
7. Provide a continuing Performance Bond in the amount of one year's minimum annual rent as bid.
8. Pay for all taxes applicable to the operation of the concession, including possessory interest taxes, and all utility services as required by the contract.
9. Provide liability and fire insurance as required by the contract.
10. Obtain all necessary licenses, permits, and approvals as set forth in the contract and abide by all applicable health, safety, and environmental codes and regulations.
11. Comply with the letter and spirit of current and subsequent guidelines or plans, including General Plan amendments or updates, management and interpretive plans.
12. Demonstrate compliance with labor laws as specified in the RFP.

**The successful proposer will not:**

1. Provide or sell items or services considered inappropriate, deemed objectionable, or denied by the State.
2. Charge prices in excess of those approved by the State.
3. Promote or participate in activities that are incompatible with the rules, regulations, guidelines, or the mission of the Department.

**Note: This contract summary is for general information only. Terms and conditions are set forth in detail in the Sample Concession Contract.**



## SECTION 2 - THE RFP PROCESS

### 2.1 PROPOSAL PROCESS

#### Tentative Proposal Dates

|                                   |   |
|-----------------------------------|---|
| September 16, 2008 .....          | Opening Date - Publication of the RFP                           |
| September 25, 2008. ....          | Optional Pre-Proposal Meeting                                   |
| October 3, 2008 .....             | Questions - Last date for proposers to submit written questions |
| October 10, 2008 .....            | Answers - DPR written responses to questions                    |
| November 18, 2008 - 2:00 p.m. ... | Closing Date - Deadline for proposal submission                 |
| November 2008 .....               | Investigation and evaluation of Proposals                       |
| December 2008 .....               | Notification of "Intent to Award Contract"                      |
| December 2008 .....               | Award, preparation, and execution of contract                   |
| January 1, 2009 .....             | Ten (10) year contract begins                                   |

**Note:** This schedule does not consider unforeseen factors that could impact the timing of the project. It is the intent of the State to keep proposers apprised of changes in the schedule as they occur. Should the award of the contract be protested, additional time will be required to resolve the matter.

#### Optional Pre-Proposal Meeting

It is strongly recommended that you or your designated representative attend the optional pre-proposal meeting and site tour to be held on Thursday, September 25, 2008 at 10:00 a. m. at Huntington State Beach, 21601 Pacific Coast Highway in Huntington Beach, and 1:00 p.m. at Calafia Beach, 3030 Avenida Del Presidente in San Clemente. The meeting provides an equitable forum for all proposers to:

- Meet local Department staff;
- Learn about the RFP process, including procedures for questions and answers, proposal submission, and contract award;
- Inspect the concession site and receive information on the park and facility history and Department plans for the park and the concession;
- Review the RFP document.

#### RFP Content Questions

Questions regarding this RFP must be submitted in writing and received no later than **5:00 p.m. on October 3, 2008**. To ensure fair competition in which all proposers receive the same information and materials, no telephone or personal inquiries about this RFP will be answered. Questions must be submitted to the Department by mail, email or fax at the address and fax number listed below. A written compilation of all questions and answers, and any RFP addenda, will be sent by first-class mail to all

identified potential proposers. Questions will be answered as clearly and completely as possible without jeopardizing the competitiveness of the proposals. Proposers should send their questions addressed to:

California Department of Parks and Recreation  
Concessions and Reservations Division  
1416 Ninth Street, #1442-13  
Sacramento, CA 95814  
Attn: Jim Pine (e-mail: [jpine@parks.ca.gov](mailto:jpine@parks.ca.gov))  
Fax: 916-657-1856

### **Proposal Bond**

Proposals must be accompanied by a Proposal Bond or cashier's check payable to the State of California, Department of Parks and Recreation, in the amount of five thousand dollars (\$5,000) for each location. By submitting a proposal bond the proposer agrees that the bond may be cashed and retained by the State. If a cashier's check is submitted it will be cashed by the State. In the event the proposer fails to execute the contract, the bond or cashier's check will be retained by the State. Further, by submitting a proposal, proposer agrees that the State will suffer costs and damages not contemplated otherwise should proposer be awarded the contract but fail to execute and proceed with the contract, the exact amount of which will be difficult to ascertain. Accordingly, it is agreed that such retained sums shall not be deemed a penalty, but, in lieu of actual damages, shall represent a fair and reasonable estimate of damages to the State for failure of the proposer to execute and proceed with the contract upon notification of award by the State. Bonds will be returned to all proposers once a contract is executed.

### **Proposal Submission**

Your proposal, including the Proposal bond, must be received by **2 p.m. on November 18, 2008** at:

Concessions, Reservations and Fees Division  
1416 Ninth Street, #1442-13  
Sacramento, CA 95814

### **Proposal Format & Content**

The proposal package must be sealed and clearly marked on the outside with "Proposal for Beach Stands at Huntington State Beach or Calafia Beach". Please submit an original plus **five (5)** copies of your proposal in 8.5" x 11" three-ring binders. All material should be presented in an 8.5" x 11" portrait format with tabs for each section. Larger formatted graphic exhibits are acceptable if folded to fit within the 8.5" x 11" three-ring binder.

### **Confidentiality of Proposals**

All proposals submitted in response to an RFP become the property of the State and are subject to the requirements of the California Public Records Act. [California Government Code Section 6250 et seq.]. The proposer must identify in writing all copyrighted material, trade secrets, or other proprietary information the proposer claims are exempt from disclosure under the Public Records Act. Proposers claiming exemption must include the following statement in their proposal:

*The proposer agrees to indemnify and hold harmless the State, its officers, employees, and agents from any claims, liability, or damages against the State, and to defend any action brought against the State for proposers refusal to disclose such material, trade secrets, or other proprietary information to any party.*

Failure of a proposer to include this statement shall be deemed a waiver of any exemption from disclosure under the Public Records Act. Requests to review proposal submissions will not be allowed until after an "Intent to Award Contract" notice is published by the State.

### **Withdrawal of Proposals**

Proposals may be withdrawn at any time prior to the proposal closing date and time provided that a written request executed by the proposer or his/her duly authorized representative for the withdrawal of such proposal is filed with the Department. The withdrawal of a proposal shall not prejudice the right of a proposer to file a new proposal prior to the proposal closing date and time. However, once the proposal closing date and time has past, proposals shall be irrevocable.

## **2.2 EVALUATION PROCESS**

### **Verification of Proposal Information**

The State may obtain credit reports and verify tax form information to further establish the qualifications of any proposer. All proposers may be subject to a personal interview and inspection of his/her business premises prior to award. Proposers should notify bank and business references in writing that a representative from the state will be contacting them concerning the financial and credit information furnished to the Department with the proposal.

### **State's Right to Reject Proposals, Waive Defects and Requirements**

The State reserves the right to accept or reject any or all proposals, and waive any or all immaterial defects, irregularities, or requirements in the RFP for the benefit of the State, so long as such waiver does not give any proposer a material advantage over other proposers. A proposer shall not be relieved of his/her proposal nor shall any change be made in his/her proposal due to a proposer error.



### **Supplemental Information**

At its sole discretion, the State reserves the right, but does not have the obligation, to seek supplementary information or clarification from any proposer at any time between the dates of proposal submission/acceptance and the contract award. The State may obtain credit reports and/or make background inquiries to further establish the qualifications of any proposer. Any proposer may be subject to personal interview and inspection of his/her business premises prior to award. Any proposer may be required to appear before the Concession Contract Award Board.

### **Proposal Evaluation**

All proposals received shall be evaluated for form and content in accordance with the requirements of this RFP. The Contract Award Board will evaluate and score each eligible proposal pursuant to the point system and selection criteria as described in the Proposal Instructions and Proposal Evaluation Form. **Proposals not containing all of the items in the Concession Proposal form (DPR 398) may be rejected.**

### **Contract Award Board**

Concession Contract Award Boards are appointed by the Director of the Department, or his or her representative, and convened to review, evaluate, and rate each proposal received and make a recommendation to the Director regarding the selection of the "Best Responsible Proposer". The Award Board for this contract may include park staff with related expertise, such as Field Division Chief, Deputy Director, Acquisition and Development staff, or District Superintendent, and representatives from other public agencies and the private sector.

### **Contract Award**

If an award is made, the award for a concession contract will be to the "Best Responsible Proposer" in accordance with Section 5080.23 of the Public Resources Code. The "Best Responsible Proposer" will be the bidder whose proposal passes each of the required elements and receives the highest total score as determined by the Contract Award Board and approved by the Director or designee. Execution of the awarded concession contract is subject to approval by controlling agencies of the State, which include the Department of General Services and the Attorney General, and will not be binding on the State or the successful proposer until such approval is obtained.

### **Protest of Award**

Based on Title 14, California Code of Regulations, Chapter 3, Section 4400 and Department policy, other than a contract negotiated under Section 5080.16 of the Public Resources Code, when a concession in excess of two years is proposed to be let at public bid (or RFP), any proposer protesting or objecting to the same, or desiring to protest or object, may file within ten calendar days of the awarding of the contract (publication of the "Notice of Intent to Award") with the Director of the Department his/her verified petition, setting forth his/her objections, the reasons therefor, and points and authorities in support thereof. Failure to file a verified petition within the ten-day period shall constitute a waiver of the right to protest. Protests must be sent to:



Director  
California Department of Parks and Recreation  
P O Box 942896  
Sacramento, California 94296-0001  
Fax: 916-657-3903

A copy of such petition also must be served upon the Attorney General within such ten-day period by the protesting entity. Serve the Attorney General at:

California Department of Justice  
Office of the Attorney General  
Natural Resources Law Section  
1300 I Street, 11<sup>th</sup> Floor  
Sacramento, California 95814  
Fax: 916-327-2319

At the time of filing said petition, the protestor may demand in writing a hearing thereon. If a hearing is so demanded, or if the Director on his/her own motion orders a hearing, proceedings shall be taken under the Administrative Procedure Act, and the said petition shall be treated as a statement of issues. Any recommendation or proposed decision of the hearing officer shall be submitted to the Director for approval, adoption, modification, disapproval, or other interlocutory or final action thereon by the Director. If a hearing is not so demanded or ordered, the action of the Director on said petition shall be final.

## **2.3 CONTRACT EXECUTION**

### **Preparation of Contract**

Subsequent to the award of a contract, if an award is made, the State will prepare a final contract for execution. The contract will contain "exhibits" developed from the selected proposal including the proposal's Operation, Facility, and Interpretation Plans, as required. Minor changes or modifications to the contract, proposal plans, and contract exhibits may be made prior to execution based on agreement between the State and concessionaire. However, no material change to the contract or its exhibits as presented in the RFP and in the selected proposal may be made.

### **Performance Bond and Insurance**

The successful proposer will be required to submit a Performance Bond and evidence of insurance required under the contract. Failure to submit the bond and/or insurance verification within the time limit presented may be treated as a refusal to execute, if the State so elects. The State may take the Proposer Bond and select the next Best Responsible Proposal.

**Failure to Sign/Deliver Contract**

A failure of the successful proposer to sign and deliver the contract within thirty (30) days of receipt may be treated as a refusal to execute, if the State so elects. The State may retain the Proposer Bond and select the next Best Responsible Proposal and so on until a contract is executed.

**Return of Proposer's Bond**

The successful proposer's bond or cashier's check will be refunded when the successful proposer has executed the contract and provided the State with all bonds and evidence of all insurance required under the contract.

## SECTION 3 - THE PROPOSAL

### 3.1 INSTRUCTIONS FOR THE CONCESSION PROPOSAL

A completed Concession Proposal form (also known as DPR 398) and a Proposal Bond will constitute your proposal. You must complete all sections, respond to all questions, and fill in all blanks of the form. Inapplicable questions or blanks must be marked "N/A" or "Not Applicable". Failure to properly complete the form may disqualify your proposal.

The proposal must be clear, unambiguous, and unconditional. It should clearly commit you to entering into a contract with the State to provide the services and other concession improvements as required by this RFP and offered in the proposal.

The submission of a proposal shall be deemed evidence that you are aware of the responsibilities of being a concessionaire and have carefully examined State laws relating to California State Park concessions; possessory interest tax as related to concessions; the site(s) selected for said concession; obligations and responsibilities related to local control agencies and permitting requirements; and the proposal instructions, proposal form, and the sample concession contract included herein.

Please refer to the following information to complete the Concession Proposal form (DPR 398):

#### I. PROPOSER INFORMATION

##### A. Proposer Identification

###### Incumbent Factor

The incumbent concessionaire is defined as the individual, partnership, or corporation that currently operates the concession advertised in this RFP. Such concession operation must be at the same site, comprise the same type of operation(s), and provide substantially the same types of products and services as those specified in the RFP. Incumbent proposals are awarded points based on annual Performance Evaluations (DPR 531) performed by the State. Poor Performance Evaluations may result in negative point scores.

###### Small Business Status

Preference will be granted to proposers properly certified as Small Businesses as defined in Title 2, Section 1896, et seq., California Code of Regulations. To claim this preference, include a copy of the Small Business Certification or the Office of Small Business (OSB) identification number with your proposal. To ensure a certifiable document, OSB applications should be submitted well before the proposal closing day. It is the proposer's responsibility to contact OSB to verify the completeness of the application. Incomplete documents are not certifiable. You may obtain an application for Small Business Certification from:

Office of Small Business and DVBE Certification  
707 Third Street, 1<sup>st</sup> Floor, Room 400  
West Sacramento, CA 95605  
(800) 559-5529 or (916) 375-4940  
FAX (916) 374-4950

Certification will verify that the business is independently owned and operated; not dominant in its field of operation; has its principal office located in California; has officers domiciled in California; and together with affiliates is either a service, construction, or non-manufacturer with 100 or fewer employees and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three (3) years, or a manufacturer with 100 or fewer employees.

**B. Business Information**

Select the type of business that describes the proposing entity (Sole Proprietorship, Partnership, Joint Venture, or Corporation) and provide the requested information. The type of business must be established prior to submitting a proposal and must not be a condition of receiving the contract. Limited Liability Companies (LLC) must include a copy of their Articles of Organization with the California Secretary of State seal (LLC-1 or LLC-5) and the Statement of Information (LLC-12) to identify the managing member or members of the Organization.

Business Experience

Provide a narrative describing in detail the duration, extent, and quality of the business's previous work related to the subject concession. More points will be awarded to business entities that have experience owning, operating, and managing similar concession contracts and/or contracting for services with public agencies. Attach additional information as needed.

For the purpose of ensuring that all proposals are afforded an equal opportunity to compete for the contract, the Department may consult with the Department of Finance, Board of Equalization, or other experts as determined by State to obtain information necessary to estimate the amount of fees or taxes that would be paid to the State or local government by each proposer if awarded the contract.

**C. Individual Information**

Each individual, partner, member of joint ventures, officer of corporations, concession manager, and holders of 25% or more of the company's shares (as applicable) or the managing member or members identified on the LLC 12, Statement of Information, must complete a copy of the Individual Information form AND complete and sign the Authorization to Release Information in Section IV.

Experience

Provide a narrative describing in detail the duration, extent, and quality of your education and business experience with special emphasis on your experience related to



the subject concession. Be specific with respect to the type and dates of experience, your role in the management and specific duties, type and size of operation, quality of operation, public agency involvement, contractual relationships, and other factors that demonstrate your ability to successfully operate the proposed concession. Be sure to demonstrate how you meet the required proposer qualifications, if applicable. Attach additional information as needed.

For the purposes of this RFP, proposers must have a minimum of three (3) years experience owning, managing, or operating a business of similar size, type, and scope as the concession operations set forth and envisioned by this RFP. The proposer will be rated according to the years of relevant experience as verified by references. In addition, points are awarded for experience contracting with public agencies.

**D. Statement of Financial Capability**

Proposers must present evidence satisfactory to the State demonstrating their ability to finance, construct, operate, and maintain the concession facilities as proposed. Your statement of financial capability must include the source of funding and detailed information including:

Source of funding and cost of concession development: Identify and describe the specific source of funding that your business will use to undertake the project as you have proposed. If funds are to be used from outside sources (i.e., parent company, third party, LLC partners, etc.), provide documentation, such as a recent bank statement, balance sheet, income statement, and/or other supporting documents, to demonstrate these funds are available and unconditionally committed to this concession project. In addition, if funds are to be borrowed to finance any portion of the total investment, you must provide loan commitment documentation such as a letter-of-intent from the individual, bank, or other lending entity indicating the minimum amount to be loaned and any applicable percentage rate. The loan commitment may contain the qualification that the loan will be consummated only upon award of an agreement with the State; otherwise the commitment must be irrevocable and unconditional.

Business Financial Statement: Use the Business Financial Statement to describe the current and true condition of your business' assets, liabilities, and net worth. Round figures to the nearest dollar. If your business is a partnership or joint venture, each general partner or joint venturer must individually submit a Business Financial Statement. You may provide copies of forms filed with the Internal Revenue Service, where applicable.

**E. Credit Worthiness**

Proposers must present evidence of credit worthiness. At a minimum, evidence shall include a credit report issued by a nationally recognized credit bureau within 60 days of the proposal due date. Any derogatory information listed on said reports must be explained.

## **F. References**

Financial, client, and vendor references are used to confirm information provided by proposers and to evaluate the proposer's quality of experience and past performance. Please submit one reference for each reference type required below. However, to adequately substantiate the claims you have made in your proposal, you are encouraged to provide three references that are familiar with you and your business. Proposers should notify their references in writing that a representative from the State will be contacting them.

For the purposes of this RFP, please provide the references from the following sources:

- Financial References: Include your bank or savings and loan institution.
- Client or Business References: Name clients or other persons that most accurately reflect your performance and ability to fulfill contract obligations with other entities for the provision of goods and services.
- Vendor References: Please provide vendor references if you are a pre-existing business currently utilizing vendors.

## **II. PROPOSAL INFORMATION**

Provide an Operation, Facility, and Interpretive Plan (as required) that addresses each of the checked elements in the Concession Proposal form (DPR 398). For your information, each element of the Concession Proposal is described below. You may submit additional information to describe and enhance your proposal.

### **A. Operation Plan**

As a condition of the contract award, the successful proposer may be required to revise or further develop the Operation Plan to the satisfaction of the State and prior to the execution of the contract. If and when it is accepted, the final plan will be incorporated as an exhibit to the contract and become an obligation of the concessionaire thereunder. In addition to the Operation Plan, the successful proposer also must adhere to the operational requirements as described in the contract. Your Operation Plan should address each of the following elements:

#### Vision/Mission Statement

Your Vision/Mission Statement should capture both the State's and your own goals and objectives for the concession business and provide a clear philosophy to guide you.

#### Organizational Structure

Provide an organization chart and staffing plan that can guide the operation and ongoing management of your concession business. Your plan should identify and define all job classifications to be used and the required job skills and qualifications. Describe the assignments, duties, and schedules for each staffing level considering contract requirements, the proposed hours of operation (see Sample Concession Contract), and any unique seasonal and peak use circumstances.

Transition/Business Start-Up

Describe your plan and timeline for starting concession operation and providing a seamless transition in customer service.

Customer Service

Demonstrate your ability and clear commitment to successfully implement an effective customer service program. Your plan should include, but is not limited to, previously established and effective customer service program models, adequate employee staffing and management oversight, hours of operation equal to or greater than required by this RFP, and a customer satisfaction feedback survey program.

Employee Staffing and Training

Your employee policies and training program should include, but are not limited to, personnel policies; hiring practices; health, safety, and grievance policies and procedures; uniform policies and requirements; business orientation; job training; and park orientation training. Such programs must provide sufficient staffing with the skills, capabilities, and training to ensure the provision of uninterrupted, high-quality services to all park visitors. All concession employees shall receive training to include an orientation on the State Park System, and local points of interest, provided by Concessionaire. Such orientation shall be sufficient to permit concession employees to reply adequately to inquiries from the visiting public.

Marketing and Advertising

Your Marketing and Advertising Plan should include, but is not limited to, proposed approaches, methodologies, media, advertising materials, schedules, and budget allocations.

Community Involvement

Provide a plan for and commitment to creating added value and benefits to the surrounding community and park visitors. This plan may include special events, educational programs, and community service activities. In addition, you should identify the special skills, knowledge, and resources needed and available to implement your plan.

Products, Merchandise, and Services

Provide a detailed description of the proposed menu and other products, merchandise, and services to be provided by the concession operation. If catering services provided, provide a separate sample menu and pricing for these services. Food and other sales items must be high quality and the selection varied. The products and services offered should meet or exceed the needs of the park users, and be compatible with and complimentary to the mission of the park.

Prices and Pricing Policies

Provide a price schedule for a representative sample of the products and services proposed. Your plan must include a definitive description and explanation of the policies to be used to establish prices for food, beverages, products, and services. The

policies shall clearly demonstrate the relationship of pricing to product quality and portions as well as the consumer price index. Implementation of these policies must provide park visitors with quality products at reasonable prices considering the competition of comparable markets for similar products and services.

#### Conservation and Recycling

Outline your approach to solid waste management, including reduction, re-use, and recycling, use of post-consumer recycled products, water and energy conservation, pest management, hazardous materials handling, air quality, and other applicable facets of resource conservation and environmental protection that are applicable to the concession operation. Your plan should clearly commit you to a program that will minimize negative impacts on the environment and encourage park visitors to do the same.

#### Accessibility

Provide a plan for and commitment to ensuring disabled visitors will have access to all of the services provided through the concession operation in accordance with the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, and California Government Code Sections 4450 et. seq. and 7250. The Accessibility Plan should address all disabilities and should not be limited to those affecting mobility. Please describe facility improvements for the purposes of accessibility below under Facility Plan.

#### Healthy Foods Initiative

An important goal for this contract is the promotion of a healthy lifestyle in an environmentally-sustainable manner. Proposers should consider providing traditional menu items either updated to conform with the Department's healthy food requirements, or the addition of healthy food menu options.

### **B. Facility Plan**

After the State's review and approval, the Facility Plan from the successful proposal shall be included as an exhibit to the contract. At a minimum, concessionaire will be responsible for completing facility improvements described within Sample Contract Exhibit I at an estimated cost of forty-five thousand dollars (\$45,000) for Huntington (\$15,000 per facility) and twenty-five thousand dollars (\$25,000) for Calafia. In addition to the Facility Plan, the successful proposer must adhere to the facility requirements as described in the Sample Contract.

#### Facility Improvements

The Facility Plan must describe your proposal for completing any proposed or required facility improvements. At a minimum, facility improvements must comply with construction requirements of the Sample Contract, Section 10 Construction and Completion of Improvements, and Exhibit I. The plan should describe the type and quality of work to be performed and an implementation plan with timeline for completing all Critical Elements by the end of the first contract year. The most points will be



awarded to those proposals that offer the most improvements with the earliest completion date and the highest quality work.

Furnishings and Equipment

Describe the intended physical facilities of the concession including furnishings, equipment, décor, and layout. Implementation of proposer's plan should provide first-class concession facilities that are consistent with and will enhance park values, visitor services, and visitor experiences at the park.

Maintenance and Housekeeping

Provide a comprehensive plan to maintain the concession facilities in a first-class condition throughout the term of the contract. The maintenance plan criteria include budget allocations, staff skills and qualifications, staffing patterns, and housekeeping and maintenance schedules.

Implementation

Describe your plan, method, and commitment to meeting the Facility Plan. Specify the timeline for completion of any capital improvements and installation of said décor and equipment prior to the commencement of operations.

Cost Estimates

Provide a cost breakdown for the Furnishings Plan including furnishings, fixtures, equipment, and decor. Provide the cost breakdown and total estimated value of proposed or required facility improvements. More points will be awarded to the proposal that offers the greatest value of facility enhancements.

**C. Interpretive Plan**

The Interpretive Plan is an element of a concession and, consequently, can be influential in the selection of the successful proposal. The Interpretive Plan from the successful proposal, after the State's review and approval, shall be included as an exhibit to the contract. The State reserves the right to include or exclude any item or items in the Interpretive Plan that the State determines do not meet the intent of the RFP or the mission of the Department.

Business' Ambiance

Describe your plan to develop and implement historical ambiance including such things as historic characterizations, environment, costumes, furnishings, signs, wall treatment, advertising, window coverings, equipment, tools, display shelves, counters, tables, chairs, and cooking equipment.

**D. Rental Offer**

The concessionaire will be required to pay as annual rent a guaranteed amount (Rental Guarantee) or a Percentage of Gross Sales, whichever is greater. Proposers shall bid both the Minimum Annual Rental Guarantee and the Annual Percentage of Gross Sales as specified in the Concession Proposal form (DPR 398). For the purposes of this RFP,

the Minimum Annual Rental must be at least thirty five thousand dollars (\$35,000) and the Annual Percentage of Gross Sales must be at least sixteen percent (16%) for Huntington and at least twenty thousand dollars (\$20,000) and Annual Percentage of Gross Sales must be at least twelve percent (12%) for Calafia. Minimum annual rent for optional catering at Huntington SB will be at least eight percent (8%) of Gross Sales and for Calafia at least six percent (6%) of Gross Sales. Any offer below the minimum rent requirements will result in proposal disqualification.

**E. Concession Feasibility**

Document your ability to successfully initiate the proposed concession in a financially responsible manner, in accordance with the terms and conditions of the sample contract and your Operation, Facility, and Interpretive Plans (as applicable). This information must substantiate your ability to: develop, furnish, equip, operate and maintain the concession in a high-quality manner; provide the public with quality products and services at reasonable and competitive prices; pay the State the rental offered; and provide a reasonable return on your investment. Fiscal documentation that will be considered in awarding points includes a financial pro forma; statement of assets and liabilities; business, vendor, bank, and/or financial references; and similar documents. You may provide information in addition to that required in the Concession Proposal form (DPR 398), but do not alter the format in any way. You must respond to each item in the order listed with the information requested or N/A.

**III. PROPOSAL SUMMARY**

The Proposal Summary should summarize your relevant experience, knowledge, and expertise, and your Operation, Facility, and Interpretive Plans (as applicable) in 250 words or less.

**IV. CERTIFICATION OF PROPOSER INFORMATION**

**A. Labor Law Compliance Certification**

A request may be made to the National Labor Relations Board for information regarding Administrative Hearing decisions against each proposer. You must have no more than one final, unappealable finding of contempt of court by a federal court issued for violation of the National Labor Relations Act within the two-year period immediately preceding the closing date of this RFP or your proposal will be disqualified.

**B. Proposer Certification**

A completed certification is required with your proposal or it will be disqualified.

**C. Authorization to Release Information**

A signed authorization for each individual, partner, member of joint ventures, officer of corporations, Concession Manager, and holders of 25% or more of the company's shares (as applicable) must be included or the proposal will be disqualified.

**V. PRIVACY NOTICE**

This section provides notice to proposers. No action by proposers is necessary.

### 3.2 PROPOSAL EVALUATION CRITERIA

#### Incumbent Preference

**5 Points**

Incumbent proposals are awarded points based on annual Performance Evaluations (See DPR 531 in the Sample Concession Contract) performed by the State as follows:

| Overall Rating of Evaluation                                | Number of Years Rating Was Received | Points Awarded |
|---|-------------------------------------|----------------|
| "Excellent"   | 3 out of last 3 years               | 5 points       |
| "Excellent" with no "needs improvement" or "unsatisfactory" | 2 out of last 3 years               | 3 points       |
| "Excellent" with no "needs improvement" or "unsatisfactory" | 1 out of last 3 years               | 2 points       |
| Satisfactory  | 3 out of last 3 years               | 1 point        |
| "needs improvement" or "unsatisfactory"                     | 1 out of last 3 years               | - 1 point      |
| "needs improvement" or "unsatisfactory"                     | 2 out of last 3 years               | - 3 points     |
| "needs improvement" or "unsatisfactory"                     | 3 out of last 3 years               | - 5 points     |

#### Small Business Preference

**5 Points**

Five points will be awarded to those proposers who have a complete and certifiable application on file with the Office of Small Business Certification.

#### Experience

**10 Points**

For the purposes of this RFP, proposers must have a minimum of three (3) years experience owning, managing, or operating a business of similar size, type, and scope as the concession operations set forth and envisioned by this RFP. The proposer will be rated according to the years of relevant experience as verified by references and the quality of experience as it relates to the business described in this RFP. In addition, points are awarded for experience contracting with public agencies.

#### Operation Plan

**25 Points**

Points will be awarded based upon the degree to which the proposal addresses each of the required elements of the Operations Plan (as identified in the DPR 398, Concession Proposal) and demonstrates an understanding of and commitment to achieving the objectives of this RFP. In addition, points will be awarded based upon the proposer's demonstrated ability to implement the components of the plan. More points will be awarded to proposals that provide high-quality goods and services that are consistent with the intent of the RFP and the mission of the park.



## Facility Plan

**25 Points**

Points will be awarded based upon the degree to which the proposal addresses each of the required elements of the Facility Plan (as identified in the DPR 398, Concession Proposal) and meets and exceeds the objectives of this RFP. More points will be awarded to the proposals that offer the most improvements with the earlier completion date, the greatest value, and the highest quality of work.

## Interpretive Plan

**5 Points**

Points will be awarded based upon the degree to which the proposal demonstrates an understanding of the park's interpretive programs and contributes to the overall interpretive messages of the park. More points will be awarded to proposals that integrate the park's interpretive theme into the daily operation of the concession; and contributes to and enhances the Department's Healthy Foods Initiative and conforms to and expands upon the related contract requirements...

## Rental Offer

**30 Points**

For the purpose of assigning points in the Proposal Evaluation, the highest acceptable\* rental offer for each category of rent required (Rental Guarantee and Percentages of Gross Sales) will be assigned the maximum points available for that category. Each lower rental offer will be assigned points in relation to the highest rental offer as follows:

**Huntington: Rental Guarantee** (Minimum bid is thirty five thousand dollars (\$35,000))

$$\frac{(\text{Bid Amount}) \text{ minus } (\$35,000)}{(\text{Highest Bid Amount}) \text{ minus } (\$35,000)} \times 15 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

**Percentage of Gross Sales** (Minimum bid is eighteen percent (16%))

$$\frac{(\text{Bid Amount})}{(\text{Highest Bid Amount})} \times 10 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

**Calafia: Rental Guarantee** (Minimum bid is thirty five thousand dollars (\$20,000))

$$\frac{(\text{Bid Amount}) \text{ minus } (\$20,000)}{(\text{Highest Bid Amount}) \text{ minus } (\$20,000)} \times 15 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

**Percentage of Gross Sales** (Minimum bid is twelve percent (12%))

$$\frac{(\text{Bid Amount})}{(\text{Highest Bid Amount})} \times 10 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

**Optional Catering: Rental Guarantee** (Minimum bid is 50% of Proposed Percentage of Gross Sales).

**Huntington:**

**Percentage of Gross Sales** (Minimum bid is eight percent (8%))

$$\frac{(\text{Bid Amount})}{(\text{Highest Bid Amount})} \times 3 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

*Calafia:*

*Percentage of Gross Sales (Minimum bid is six percent (6%))*

$$\frac{(\text{Bid Amount})}{(\text{Highest Bid Amount})} \times 2 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

\*Note: The highest bids received may not be considered acceptable. Proposers may be required to prove to the satisfaction of the State their ability to operate a successful business under their rental offer. Failure to prove this ability will be cause to disqualify the proposal. In this case, the second highest acceptable bid would be used to calculate points awarded.

### 3.3 PROPOSAL EVALUATION SHEET

#### LEVEL I COMPLIANCE WITH RFP REQUIREMENTS

##### PROPOSER QUESTIONNAIRE

##### I. PROPOSER INFORMATION

- A. Proposer Identification \_\_\_\_\_ (pass/disqualify)
- B. Business Information \_\_\_\_\_ (pass/disqualify)
- C. Individual Information \_\_\_\_\_ (pass/disqualify)
- D. Statement of Financial Capability \_\_\_\_\_ (pass/disqualify)
- E. Credit Worthiness \_\_\_\_\_ (pass/disqualify)
- F. Financial/Business/Vendor References \_\_\_\_\_ (pass/disqualify)

##### II. PROPOSAL INFORMATION

- A. Operation Plan \_\_\_\_\_ (pass/disqualify)
- B. Facility Plan \_\_\_\_\_ (pass/disqualify)
- C. Interpretive Plan \_\_\_\_\_ (pass/disqualify)
- D. Rental Offer \_\_\_\_\_ (pass/disqualify)
- E. Concession Feasibility \_\_\_\_\_ (pass/disqualify)

##### III. PROPOSAL SUMMARY \_\_\_\_\_ (pass/disqualify)

##### IV. CERTIFICATION AND AUTHORIZATION

- A. Labor Law Compliance Certification \_\_\_\_\_ (pass/disqualify)
- B. Proposer Certification \_\_\_\_\_ (pass/disqualify)
- C. Authorization to Release Information \_\_\_\_\_ (pass/disqualify)

##### PROPOSER BOND \_\_\_\_\_ (pass/disqualify)

*Proposer must pass LEVEL I to qualify for further consideration.*

**LEVEL II RENT PROPOSED/CREDIT WORTHINESS & ABILITY TO FINANCE**

- A. Rent Proposed Met/Exceeded Minimum Requirement \_\_\_\_\_ (pass/disqualified)  
B. Ability to Finance \_\_\_\_\_ (pass/disqualified)  
C. Credit Worthiness \_\_\_\_\_ (pass/disqualified)  
D. Compliance with National Labor Relations Act \_\_\_\_\_ (pass/disqualified)

*Proposer must pass LEVEL II to qualify for further consideration.*

**LEVEL III PROPOSAL EVALUATION**

- A. Proposer Information  
    Incumbent Preference \_\_\_\_\_ / 5 Points  
    Small Business Preference \_\_\_\_\_ / 5 Points  
    Experience \_\_\_\_\_ / 10 Points  
B. Proposal Information  
    Operation Plan \_\_\_\_\_ / 25 Points  
    Facility Plan \_\_\_\_\_ / 25 Points  
    Interpretive Plan \_\_\_\_\_ / 5 Points  
    Rental Offer \_\_\_\_\_ / 30 Points

**GRAND TOTAL** \_\_\_\_\_ / 105 Points

Comments:

Board Member: \_\_\_\_\_ Date: \_\_\_\_\_



### **3.4 CONCESSION PROPOSAL, DPR 398**

*(For electronic version, contact Jim Pine at [jpine@parks.ca.gov](mailto:jpine@parks.ca.gov) or (916) 653-6817.)*

## **SAMPLE CONCESSION CONTRACT**

State of California - The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

**CONCESSION PROPOSAL**

**Huntington State Beach-Beach Stands**

(Name of Concession)

*An electronic version of this questionnaire may be requested  
from the state park office issuing this Request for Proposal.*

The Proposer Questionnaire consists of the following sections:

- I. PROPOSER INFORMATION
  - A. Proposer Identification
  - B. Business Information
  - C. Individual Information
  - D. Statement Of Financial Capability
  - E. Credit Worthiness
  - F. Financial/Business/Vendor References
- II. PROPOSAL INFORMATION
  - A. Operation Plan
  - B. Facility Plan
  - C. Interpretive Plan
  - D. Rental Offer
  - E. Concession Feasibility
- III. PROPOSAL SUMMARY
- IV. CERTIFICATION AND AUTHORIZATION
  - A. Labor Law Compliance Certification
  - B. Proposer Certification
  - C. Authorization to Release Information
- V. PRIVACY NOTICE

**I. PROPOSER INFORMATION****A. PROPOSER IDENTIFICATION****GENERAL INFORMATION**

BUSINESS NAME \_\_\_\_\_  
(Exactly as it is to appear on the Concession Contract)

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP CODE \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

CONCESSION MANAGER \_\_\_\_\_

SMALL BUSINESS: ☐ No ☐ Yes S/B #: \_\_\_\_\_

FEDERAL ID NUMBER: \_\_\_\_\_

**CONTACT PERSON**

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP CODE \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_



**B. BUSINESS INFORMATION**

Check the one box below that describes your type of business and complete/attach the associated information requested. Also attach an organization chart if appropriate.

☐ **SOLE PROPRIETORSHIP**

- ☐ **PARTNERSHIP:** Attach a complete copy of the Partnership Agreement. To qualify as a responsive proposer, the Partnership Agreement shall be executed and binding upon each of the parties.

1. Date partnership established \_\_\_\_\_
2. Is the Partnership Agreement recorded? ☐ Yes. Date \_\_\_\_\_ Where \_\_\_\_\_ ☐ No
3. Has the partnership done business in California? ☐ Yes. Dates \_\_\_\_\_ ☐ No
4. 

|                      |                  |                          |   |
|----------------------|------------------|--------------------------|---|
| <u>PARTNER NAMES</u> | <u>ADDRESSES</u> | <u>NO. OF<br/>SHARES</u> | <u>GENERAL (G)<br/>or LIMITED (L)</u>   |
|                      |                  |                          | <input type="checkbox"/> G <input type="checkbox"/> L<br><input type="checkbox"/> G <input type="checkbox"/> L<br><input type="checkbox"/> G <input type="checkbox"/> L |

- ☐ **JOINT VENTURE:** Attach a complete copy of the Joint Venture Statement/Agreement. To qualify as a responsive proposal, the Joint Venture Statement/Agreement shall be executed and binding upon each of the parties.

1. Date joint venture established \_\_\_\_\_
2. Is the Joint Venture Statement/Agreement recorded? ☐ Yes. Date \_\_\_\_\_ Where \_\_\_\_\_ ☐ No
3. Has the joint venture done business in California? ☐ Yes. Dates \_\_\_\_\_ ☐ No
4. 

|   |                  |
|---|------------------|
| <u>JOINT VENTURER NAMES AND SHARE ALLOCATIONS</u> | <u>ADDRESSES</u> |
|---|------------------|

- ☐ **LIMITED LIABILITY COMPANY (LLC)** Attach a copy of Articles of Organization with the California Secretary of State seal and the Statement of Information, identifying the managing member(s) of the Organization.

To qualify as a responsive proposer, the LLC shall be in good standing and qualified to do business in the State of California.

1. Date LLC was established \_\_\_\_\_
2. Is the LLC authorized to do business in California? ☐ Yes ☐ No
3. Has the LLC done business in California? ☐ Yes. Dates \_\_\_\_\_ ☐ No
4. 

|   |                  |
|---|------------------|
| <u>LLC MANAGING MEMBERS NAMES AND SHARE ALLOCATIONS</u> | <u>ADDRESSES</u> |
|---|------------------|

- ☐ **CORPORATION:** Attach a Corporate Resolution indicating the officers authorized to contract on behalf of corporation. The Corporate Resolution shall contain the corporate seal and be certified by the Secretary of the corporation. To qualify as a responsive proposer, the corporation shall be in good standing and qualified to do business in the State of California.

1. Date incorporated \_\_\_\_\_
2. Place incorporated \_\_\_\_\_
3. Is the corporation authorized to do business in California? ☐ Yes ☐ No
5. How is the corporation held? ☐ Publicly. Below, explain how and where stock is traded. ☐ Privately
6. For publicly held corporations, attach a copy of the most current Annual Report.

**B. PROPOSER BACKGROUND, continued**

(CORPORATION - Continued)

7. Complete the information below:

AUTHORIZEDISSUEDOUTSTANDING

Number of voting shares \_\_\_\_\_

Number of non-voting shares \_\_\_\_\_

Number of shareholders \_\_\_\_\_

Value per share of common stock: Date \_\_\_\_\_ Par \_\_\_\_\_ Book \_\_\_\_\_ Authorized \_\_\_\_\_

8. Complete the information below for each officer and director of the corporation, the shareholder who is not a corporation officer or director but owns the largest number of voting shares of corporation stock, and the shareholder who is not a corporation officer or director but owns the largest number of non-voting shares of corporation stock.

| <u>NAME</u> | <u>TITLE</u> | <u>ADDRESS</u> | <u>VOTING<br/>SHARES</u> | <u>NON-VOTING<br/>SHARES</u> |
|-------------|--------------|----------------|--------------------------|------------------------------|
|-------------|--------------|----------------|--------------------------|------------------------------|

9. Has a surety or bonding company ever been required to perform on the default of the corporation within the last ten (10) years?

☐ Yes. Provide the information below for each default.☐ No (proceed to item 10)

Surety/Bonding Company Name \_\_\_\_\_

Bond Date \_\_\_\_\_ Bond Amount \_\_\_\_\_

Explain the circumstances surrounding each default and actions taken by the surety or bonding company.

10. Has the corporation ever been adjudicated bankrupt or involved in pending bankruptcy matters?

☐ Yes. Below, enter dates, court jurisdiction and amounts of liabilities and assets.☐ No

11. Is the corporation presently a party to any pending litigation, liens or claims for monetary compensation that has the potential to exceed insurance coverage or must be paid with company assets?

☐ Yes. Below, enter detailed information for each legal action.☐ No

12. Is the corporation subject to any outstanding claims, liens, or judgments which exceeded insurance coverage or must be paid with company assets?

☐ Yes. Below, enter detailed information for each claim, lien or judgment.☐ No

13. Has the corporation defaulted on, been terminated for non-performance or breach of contract, or voluntarily abandoned or forfeited rights under a contract for services or concessions contract?

☐ Yes. Below, enter an explanation of the circumstances and outcomes of each event.☐ No

**C. INDIVIDUAL INFORMATION**

Legal Name \_\_\_\_\_  
 Residence Address \_\_\_\_\_  
 Business Address \_\_\_\_\_

Social Security No. \_\_\_\_\_  
 Phone No. \_\_\_\_\_  
 Phone No. \_\_\_\_\_

**PERSONAL HISTORY**

1. Have you, individually, as a partner, joint venturer or as officer of a corporation had a bond or surety canceled or forfeited within the last ten (10) years?

☐ Yes. Provide information below. ☐ No (proceed to item 2)

Bond Company Name \_\_\_\_\_

Bond Date \_\_\_\_\_ Bond Amount \_\_\_\_\_

Explain the reason for each cancellation or forfeiture.

2. Have you individually, as a partner, joint venturer, or officer of a corporation been convicted of a felony crime in the last 10 years?

☐ Yes. Please explain ☐ No

3. Have you or your spouse or any business that you owned or in which you were an officer or had an interest ever declared bankruptcy, been declared insolvent or bankrupt, filed for bankruptcy, or reorganization under Federal or State laws?

☐ Yes. Below, enter dates, court jurisdictions, and amounts of liabilities and assets. ☐ No

4. Are you individually or any partnership or joint venture in which you have been party currently involved in any pending litigation? ☐ Yes. Below, enter dates, violations and locations. ☐ No

**WORK EXPERIENCE:**

Attach a resume and narrative as necessary.

**CERTIFICATION:** I hereby certify under penalty of perjury that all responses stated above regarding my personal history and work experience are true to the best of my knowledge and belief, and I understand and agree that any misstatement or omission of any material fact may cause forfeiture on my part of all rights to the proposed contract to be awarded by the State of California.

SIGNATURE

DATE



**D. STATEMENT OF FINANCIAL CAPABILITY**

**SOURCE OF FUNDING AND COST OF CONCESSION DEVELOPMENT**

*(Attach additional pages as necessary.)*



**BUSINESS FINANCIAL STATEMENT**For: \_\_\_\_\_  
(Business Name)As of: \_\_\_\_\_  
(Date)**ASSETS****Current Assets**

CASH ON HAND IN BANK \_\_\_\_\_

ACCOUNTS RECEIVABLE:

Current \_\_\_\_\_

Over 30 Days \_\_\_\_\_

Over 60 Days \_\_\_\_\_

NOTES RECEIVABLE DUE WITHIN 1 YEAR \_\_\_\_\_

MERCHANDISE INVENTORY: Cost/Market \_\_\_\_\_

OTHER CURRENT ASSETS:

\_\_\_\_\_

\_\_\_\_\_

**Total Current Assets** \_\_\_\_\_**Long Term Assets**

NOTES RECEIVABLE DUE AFTER 1 YEAR \_\_\_\_\_

LAND AND BUILDINGS (at cost) \_\_\_\_\_

&lt;Less&gt; Reserve For Depreciation \_\_\_\_\_

FIXTURES AND EQUIPMENT (at cost) \_\_\_\_\_

&lt;Less&gt; Reserve For Depreciation \_\_\_\_\_

PREPAID EXPENSES/DEFERRED CHARGES \_\_\_\_\_

OTHER LONG TERM ASSETS:

\_\_\_\_\_

\_\_\_\_\_

**Total Long Term Assets** \_\_\_\_\_**\* TOTAL ASSETS \*** \_\_\_\_\_

*(BUSINESS FINANCIAL STATEMENT- Continued)***LIABILITIES****Current Liabilities**

ACCOUNTS PAYABLE (past due) \_\_\_\_\_

ACCOUNTS PAYABLE (current) \_\_\_\_\_

NOTES PAYABLE DUE WITHIN 1 YEAR:

To Whom

Secured by

NOTES & ACCOUNTS PAYABLE TO PARTNERS,  
DIRECTORS, OFFICERS, OR STOCKHOLDERS

ACCRUED LIABILITIES (interest, rental, payroll, etc.)

ACCRUED FEDERAL &amp; STATE TAXES

OTHER CURRENT LIABILITIES:

**Total Current Liabilities** \_\_\_\_\_**Long Term Liabilities**

NOTES PAYABLE DUE AFTER 1 YEAR:

OTHER LIABILITIES:

**Total Long Term Liabilities** \_\_\_\_\_**TOTAL LIABILITIES** \_\_\_\_\_**NET WORTH**

CAPITAL STOCK (if corporation)

OWNER CAPITAL

**TOTAL NET WORTH** \_\_\_\_\_**\* TOTAL LIABILITIES & NET WORTH \*** \_\_\_\_\_

**E. CREDIT WORTHINESS**

*(Attach additional pages as necessary.)*

**E. REFERENCES**

Reference Type: \_\_\_\_\_

*Duplicate this page and submit one reference page for each reference type (financial, vendor, or client) required in the instructions.*

**REFERENCE NO. 1**

Name/Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_  
Acct. Type(s) & Number(s) \_\_\_\_\_  
Type of Business Relationship \_\_\_\_\_  
Length of Association \_\_\_\_\_

**REFERENCE NO. 2**

Name/Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_  
Acct. Type(s) & Number(s) \_\_\_\_\_  
Type of Business Relationship \_\_\_\_\_  
Length of Association \_\_\_\_\_

**REFERENCE NO. 3**

Name/Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_  
Acct. Type(s) & Number(s) \_\_\_\_\_  
Type of Business Relationship \_\_\_\_\_  
Length of Association \_\_\_\_\_

**REFERENCE NO. 4**

Name/Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_  
Acct. Type(s) & Number(s) \_\_\_\_\_  
Type of Business Relationship \_\_\_\_\_  
Length of Association \_\_\_\_\_

## II. PROPOSAL INFORMATION

(Attach separate pages as necessary)

### A. OPERATION PLAN

☐ No Operation Plan Required

- ☒ Vision/Mission Statement  
☒ Organizational Structure  
☒ Transition/Business Start-up  
☒ Customer Service  
☒ Employee Staffing & Training  
☒ Marketing and Advertising  
☒ Community Involvement

- ☒ Products, Merchandise, and Services  
☒ Prices and Pricing Policies  
☒ Conservation and Recycling  
☒ Accessibility  
☒ Healthy Foods Initiative  
☐ Other: \_\_\_\_\_

### B. FACILITY PLAN

☐ No Facility Plan Required

- ☒ Furnishings  
☒ Capital Improvement Projects  
☒ Maintenance and Housekeeping Program  
☐ Other: \_\_\_\_\_

- ☒ Implementation Plan  
☒ Cost(s) estimates.  
☐ Other: \_\_\_\_\_

### C. INTERPRETIVE PLAN

☐ No Interpretive Plan Required

- ☐ Proposer's Relevant Experience  
☐ Business' Interpretive Theme  
☐ Interpretive Programs and Activities  
☐ Other: \_\_\_\_\_  
☐ Other: \_\_\_\_\_  
☐ Other: \_\_\_\_\_

- ☒ Business' Ambiance Plan  
☐ Primary Education Programs  
☐ Restaurant Operations

### D. RENTAL OFFER

- ☒ Minimum Annual Rent: \$35,000 (\$/year)  
☒ Percentage Rent: 16% (% of gross receipts)  
☒ Percentage Rent Optional Catering: 8% (% of gross receipts)

Minimum Annual Rent: \$ \_\_\_\_\_ (year)

Percentage Rent: \_\_\_\_\_ (% of gross receipts)

OPTIONAL CATERING \_\_\_\_\_ (% of gross receipts)



**E. CONCESSION FEASIBILITY**

*You may provide additional information, but do not alter the formats below in any way.  
You must respond to each item in the order listed with the information requested or N/A.*

**CONCESSION DEVELOPMENT COST ESTIMATE**

PRELIMINARY PLANNING AND DESIGN \_\_\_\_\_

CONSTRUCTION OF INTERIOR IMPROVEMENTS/FIXTURES \_\_\_\_\_

EQUIPMENT/FURNISHINGS \_\_\_\_\_

AUTOS/TRUCKS \_\_\_\_\_

STOCK/INVENTORY \_\_\_\_\_

LICENSES &amp; PERMITS \_\_\_\_\_

PREPAID EXPENSES \_\_\_\_\_

OTHER COSTS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**TOTAL DEVELOPMENT COSTS** \_\_\_\_\_**PROPOSED MEANS TO FINANCE CONCESSION**

CONCESSIONAIRE SUPPLIED CAPITAL \_\_\_\_\_

SHORT TERM LOANS (1 year or less) \_\_\_\_\_

LONG TERM LOANS (more than 1 year) \_\_\_\_\_

SUPPLIER CREDIT \_\_\_\_\_

OTHER FINANCING:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**TOTAL FINANCING\*** \_\_\_\_\_

*\* Must meet or exceed "Total Development Costs" amount.*

**FINANCIAL PROFORMA**

Complete all aspects of this proforma for as they apply to your proposed concession operation. Round figures to the nearest dollar. Use additional pages as necessary to provide for a 10 year period.

| ITEM  | YEAR 1              | YEAR 2 | YEAR 3        | YEAR 4 | YEAR 5 |
|---|---------------------|--------|---------------|--------|--------|
| <b>GROSS PROFIT</b>   |                     |        |               |        |        |
| <u>Gross Sales</u>  |                     |        |               |        |        |
|   |                     |        |               |        |        |
|   |                     |        |               |        |        |
| <b>Total Gross Sales <sup>(1)</sup></b>                         |                     |        |               |        |        |
| <b>&lt;Less&gt; Cost of Goods Sold <sup>(2)</sup></b>           |                     |        |               |        |        |
| <b>TOTAL GROSS PROFIT</b>                                       |                     |        |               |        |        |
| <b>OPERATING EXPENSES</b>                                       |                     |        |               |        |        |
| <u>Variable Operating Expenses</u>                              |                     |        |               |        |        |
| Salaries & Payroll Related                                      |                     |        |               |        |        |
| Taxes & Licenses (other than sales income)                      |                     |        |               |        |        |
| Insurance   |                     |        |               |        |        |
| Advertising   |                     |        |               |        |        |
| Maintenance & Repairs   |                     |        |               |        |        |
| Utilities (including telephone)                                 |                     |        |               |        |        |
| Legal & Accounting  |                     |        |               |        |        |
| Rent to State   |                     |        |               |        |        |
| Interest  |                     |        |               |        |        |
| Supplies & Material   |                     |        |               |        |        |
| Administrative Overhead   |                     |        |               |        |        |
| Travel & Transportation   |                     |        |               |        |        |
| Other:  |                     |        |               |        |        |
| Other:  |                     |        |               |        |        |
| Other:  |                     |        |               |        |        |
| Other:  |                     |        |               |        |        |
| <b>Total Variable Operating Expenses</b>                        |                     |        |               |        |        |
| <u>Fixed Operating Expenses</u>                                 |                     |        |               |        |        |
| Facility Improvements   |                     |        |               |        |        |
| Equipment Purchases   |                     |        |               |        |        |
| Amortization  |                     |        |               |        |        |
| Depreciation  |                     |        |               |        |        |
| Performance Bond  |                     |        |               |        |        |
| <b>Total Fixed Operating Expenses</b>                           |                     |        |               |        |        |
| <b>TOTAL OPERATING EXPENSES <sup>(3)</sup></b>                  |                     |        |               |        |        |
| <b>* NET INCOME *</b><br><i>(before income taxes)</i>           |                     |        |               |        |        |
| (1) EXPLAIN HOW YOU ARRIVED AT THE PROJECTED TOTAL GROSS SALES. |                     |        |               |        |        |
| (2) EXPLAIN HOW YOU CALCULATED COST OF GOODS SOLD.              |                     |        |               |        |        |
| (3) EXPLAIN HOW YOU CALCULATED TOTAL OPERATING EXPENSES         |                     |        |               |        |        |
| PREPARER SIGNATURE  | TITLE               |        | DATE          |        |        |
| PRINTED NAME  | PHONE NUMBER        |        | EMAIL ADDRESS |        |        |
| ADDRESS   | CITY/STATE/ZIP CODE |        |               |        |        |

### III. PROPOSAL SUMMARY

*(Attach separate pages as necessary)*

## IV. CERTIFICATION AND AUTHORIZATION

**A. LABOR LAW COMPLIANCE CERTIFICATION**

I hereby certify that:

PROPOSER NAME \_\_\_\_\_

FEDERAL EMPLOYER ID NUMBER \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP CODE \_\_\_\_\_

has not had more than one, final, unappealable finding of contempt of court by a federal court issued against the proposer for any violation of National Labor Relations Act provisions within the two-year period immediately preceding the closing date for acceptance of proposals under this Request for Proposals.

Additionally, I, the signatory, do hereby swear that I am duly authorized to legally execute the certification described above on behalf of the proposer. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

|   |               |
|---|---------------|
| SIGNATURE   | DATE EXECUTED |
|  |               |
| SIGNATORY'S PRINTED NAME  | TITLE         |
|   |               |

## B. PROPOSER CERTIFICATION

I/We am (are) personally acquainted with the premises of the subject concession and I/we have read, understand, and agree with the terms and conditions specified in this RFP document, including the Sample Concession Contract.

I/We meet the required experience qualifications and/or currently employ a Concession Manager who meets the qualifications.

I/We have the necessary financial resources to equip and operate the concession and perform the proposed capital investments, and I/we have enclosed a cashier's check or Proposer's Bond in the required amount, payable to the Department of Parks and Recreation, as a guarantee that, in the event my/our proposal is accepted and approved by the State, I/we will:

1. Execute and complete the Concession Contract, incorporating this proposal and all the terms and conditions contained in the RFP. The Concession Contract then will be executed by the State upon approval by the appropriate State agencies;
2. Provide the Performance Bond as required by the Concession Contract upon execution of the Contract by State; and
3. Provide the proposed guarantees, including rent, capital investments, equipment, and management and operation services.

I/We hereby certify that all responses and information provided in connection with this proposal are true to the best of my/our knowledge and belief, and I/we understand and agree that any misstatement or omission of any material fact may cause forfeiture on my/our part of all rights to the proposed agreement to be awarded by the State of California.

I/We hereby respectfully submit this proposal, including all required documents and statements. I/We represent that the signatories hold the positions set forth below their signatures and are authorized to execute this proposal.

*If the proposal is made by a sole proprietor, this form shall be signed with the full name of the proposer. If it is made by a partnership, a limited partnership, or a joint venture, it shall be signed with the full name of each partner or member thereof. If it is made by a corporation, it shall be signed by: (1) the President, any Vice President, or the Chairman of the Board; and (2) by the Corporation Secretary, any Assistant Secretary, Chief Financial Officer, or any Assistant Treasurer.*

|                |                                |         |
|----------------|--------------------------------|---------|
| SIGNATURE<br>▶ | POSITION/TITLE AND/OR FUNCTION | DATE    |
| PRINTED NAME   | PHONE NUMBER                   | FAX NO. |
| ADDRESS        | CITY/STATE/ZIP CODE            |         |
| SIGNATURE<br>▶ | POSITION/TITLE AND/OR FUNCTION | DATE    |
| PRINTED NAME   | PHONE NUMBER                   | FAX NO. |
| ADDRESS        | CITY/STATE/ZIP CODE            |         |
| SIGNATURE<br>▶ | POSITION/TITLE AND/OR FUNCTION | DATE    |
| PRINTED NAME   | PHONE NUMBER                   | FAX NO. |
| ADDRESS        | CITY/STATE/ZIP CODE            |         |




State of California - The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

**C. AUTHORIZATION TO RELEASE INFORMATION**

*(General)*

To Whom It May Concern:

I/my company have (has) submitted a proposal to the State of California, Department of Parks and Recreation, for a concession operation. I hereby authorize you to release or discuss any or all information in your possession pertaining to me as requested by an employee or representative of the State of California, Department of Parks and Recreation in connection with or to verify information submitted by me in the above-referenced proposal.

|   |             |
|---|-------------|
| PROPOSER SIGNATURE  | DATE SIGNED |
|  |             |
| PRINTED NAME  |             |
| POSITION/TITLE  |             |
| COMPANY NAME (if applicable)  |             |

## V. PRIVACY NOTICE

*Section 1798.17 of the Civil Code requires this notice be provided when collecting personal information from individuals. Each individual has the right to review his or her personal information maintained by this department unless exempted by law.*

### **OFFICIAL RESPONSIBLE**

Chief, Concessions and Reservations  
California Department of Parks and Recreation  
P.O. Box 942896  
Sacramento, CA 94296-0001  
(916) 653-7733

### **AUTHORITY**

Public Resources Code Section 5080.08(a) and 5080.08(b)

### **PURPOSE**

The information will be used for the purposes of evaluation to determine capabilities of proposers to perform the contract and to determine the best responsible proposer if an award is made.

### **PROVIDING INFORMATION**

All information requested is mandatory.

### **EFFECTS OF NOT PROVIDING INFORMATION**

If the requested information is not provided, the proposal will be determined to be not responsive and will be rejected.

### **KNOWN OR FORESEEABLE DISCLOSURES OF INFORMATION PURSUANT TO CIVIL CODE SECTIONS 1798.24, SUBDIVISIONS (e) OR (f)**

Disclosure may be made to the Department of General Services, Office of the Attorney General, Department of Finance, Office of the Auditor General, or the Department of Parks and Recreation Audits Office.

State of California - The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

**CONCESSION PROPOSAL**

**Calafia portion of San Clemente State Beach-  
Beach Stands**

---

(Name of Concession)

*An electronic version of this questionnaire may be requested  
from the state park office issuing this Request for Proposal.*

The Proposer Questionnaire consists of the following sections:

- I. PROPOSER INFORMATION
  - A. Proposer Identification
  - B. Business Information
  - C. Individual Information
  - D. Statement Of Financial Capability
  - E. Credit Worthiness
  - F. Financial/Business/Vendor References
- II. PROPOSAL INFORMATION
  - A. Operation Plan
  - B. Facility Plan
  - C. Interpretive Plan
  - D. Rental Offer
  - E. Concession Feasibility
- III. PROPOSAL SUMMARY
- IV. CERTIFICATION AND AUTHORIZATION
  - A. Labor Law Compliance Certification
  - B. Proposer Certification
  - C. Authorization to Release Information
- V. PRIVACY NOTICE

## I. PROPOSER INFORMATION

### A. PROPOSER IDENTIFICATION

#### GENERAL INFORMATION

BUSINESS NAME \_\_\_\_\_  
(Exactly as it is to appear on the Concession Contract)

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP CODE \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

CONCESSION MANAGER \_\_\_\_\_

SMALL BUSINESS: ☐ No ☐ Yes S/B #: \_\_\_\_\_

FEDERAL ID NUMBER: \_\_\_\_\_

#### CONTACT PERSON

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP CODE \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

**B. BUSINESS INFORMATION**

Check the one box below that describes your type of business and complete/attach the associated information requested. Also attach an organization chart if appropriate.

☐ **SOLE PROPRIETORSHIP**

☐ **PARTNERSHIP:** Attach a complete copy of the Partnership Agreement. To qualify as a responsive proposer, the Partnership Agreement shall be executed and binding upon each of the parties.

1. Date partnership established \_\_\_\_\_
2. Is the Partnership Agreement recorded? ☐ Yes. Date \_\_\_\_\_ Where \_\_\_\_\_ ☐ No
3. Has the partnership done business in California? ☐ Yes. Dates \_\_\_\_\_ ☐ No
4. PARTNER NAMES ADDRESSES NO. OF SHARES GENERAL (G) or LIMITED (L)  
☐ G ☐ L  
☐ G ☐ L  
☐ G ☐ L

☐ **JOINT VENTURE:** Attach a complete copy of the Joint Venture Statement/Agreement. To qualify as a responsive proposal, the Joint Venture Statement/Agreement shall be executed and binding upon each of the parties.

1. Date joint venture established \_\_\_\_\_
2. Is the Joint Venture Statement/Agreement recorded? ☐ Yes. Date \_\_\_\_\_ Where \_\_\_\_\_ ☐ No
3. Has the joint venture done business in California? ☐ Yes. Dates \_\_\_\_\_ ☐ No
4. JOINT VENTURER NAMES AND SHARE ALLOCATIONS ADDRESSES

☐ **LIMITED LIABILITY COMPANY (LLC):** Attach a copy of Articles of Organization with the California Secretary of State seal and the Statement of Information, identifying the managing member(s) of the Organization.

To qualify as a responsive proposer, the LLC shall be in good standing and qualified to do business in the State of California.

1. Date LLC was established \_\_\_\_\_
2. Is the LLC authorized to do business in California? ☐ Yes ☐ No
3. Has the LLC done business in California? ☐ Yes. Dates \_\_\_\_\_ ☐ No
4. LLC MANAGING MEMBERS NAMES AND SHARE ALLOCATIONS ADDRESSES

☐ **CORPORATION:** Attach a Corporate Resolution indicating the officers authorized to contract on behalf of corporation. The Corporate Resolution shall contain the corporate seal and be certified by the Secretary of the corporation. To qualify as a responsive proposer, the corporation shall be in good standing and qualified to do business in the State of California.

1. Date incorporated \_\_\_\_\_
2. Place incorporated \_\_\_\_\_
3. Is the corporation authorized to do business in California? ☐ Yes ☐ No
5. How is the corporation held? ☐ Publicly. Below, explain how and where stock is traded. ☐ Privately
6. For publicly held corporations, attach a copy of the most current Annual Report.



**B. PROPOSER BACKGROUND, continued**

(CORPORATION - Continued)

7. Complete the information below:

AUTHORIZED

ISSUED

OUTSTANDING

Number of voting shares \_\_\_\_\_

Number of non-voting shares \_\_\_\_\_

Number of shareholders \_\_\_\_\_

Value per share of common stock: Date \_\_\_\_\_ Par \_\_\_\_\_ Book \_\_\_\_\_ Authorized \_\_\_\_\_

8. Complete the information below for each officer and director of the corporation, the shareholder who is not a corporation officer or director but owns the largest number of voting shares of corporation stock, and the shareholder who is not a corporation officer or director but owns the largest number of non-voting shares of corporation stock.

| <u>NAME</u> | <u>TITLE</u> | <u>ADDRESS</u> | <u>VOTING<br/>SHARES</u> | <u>NON-VOTING<br/>SHARES</u> |
|-------------|--------------|----------------|--------------------------|------------------------------|
|-------------|--------------|----------------|--------------------------|------------------------------|

9. Has a surety or bonding company ever been required to perform on the default of the corporation within the last ten (10) years?

☐ Yes. Provide the information below for each default.

☐ No (*proceed to item 10*)

Surety/Bonding Company Name \_\_\_\_\_

Bond Date \_\_\_\_\_ Bond Amount \_\_\_\_\_

Explain the circumstances surrounding each default and actions taken by the surety or bonding company.

10. Has the corporation ever been adjudicated bankrupt or involved in pending bankruptcy matters?

☐ Yes. Below, enter dates, court jurisdiction and amounts of liabilities and assets.

☐ No

11. Is the corporation presently a party to any pending litigation, liens or claims for monetary compensation that has the potential to exceed insurance coverage or must be paid with company assets?

☐ Yes. Below, enter detailed information for each legal action.

☐ No

12. Is the corporation subject to any outstanding claims, liens, or judgments which exceeded insurance coverage or must be paid with company assets?

☐ Yes. Below, enter detailed information for each claim, lien or judgment.

☐ No

13. Has the corporation defaulted on, been terminated for non-performance or breach of contract, or voluntarily abandoned or forfeited rights under a contract for services or concessions contract?

☐ Yes. Below, enter an explanation of the circumstances and outcomes of each event.

☐ No

**C. INDIVIDUAL INFORMATION**

Legal Name \_\_\_\_\_

Social Security No. \_\_\_\_\_

Residence Address \_\_\_\_\_

Phone No. \_\_\_\_\_

Business Address \_\_\_\_\_

Phone No. \_\_\_\_\_

**PERSONAL HISTORY**

1. Have you, individually, as a partner, joint venturer or as officer of a corporation had a bond or surety canceled or forfeited within the last ten (10) years?

☐ Yes. Provide information below.☐ No (*proceed to item 2*)

Bond Company Name \_\_\_\_\_

Bond Date \_\_\_\_\_ Bond Amount \_\_\_\_\_

Explain the reason for each cancellation or forfeiture.

2. Have you individually, as a partner, joint venturer, or officer of a corporation been convicted of a felony crime in the last 10 years?

☐ Yes. Please explain☐ No

3. Have you or your spouse or any business that you owned or in which you were an officer or had an interest ever declared bankruptcy, been declared insolvent or bankrupt, filed for bankruptcy, or reorganization under Federal or State laws?

☐ Yes. Below, enter dates, court jurisdictions, and amounts of liabilities and assets.☐ No

4. Are you individually or any partnership or joint venture in which you have been party currently involved in any pending litigation? ☐ Yes. Below, enter dates, violations and locations. ☐ No

**WORK EXPERIENCE:**

Attach a resume and narrative as necessary.

**CERTIFICATION:** I hereby certify under penalty of perjury that all responses stated above regarding my personal history and work experience are true to the best of my knowledge and belief, and I understand and agree that any misstatement or omission of any material fact may cause forfeiture on my part of all rights to the proposed contract to be awarded by the State of California.

SIGNATURE

DATE



**D. STATEMENT OF FINANCIAL CAPABILITY**

**SOURCE OF FUNDING AND COST OF CONCESSION DEVELOPMENT**

*(Attach additional pages as necessary.)*

**BUSINESS FINANCIAL STATEMENT**For: \_\_\_\_\_  
(Business Name)As of: \_\_\_\_\_  
(Date)**ASSETS****Current Assets**

CASH ON HAND IN BANK \_\_\_\_\_

ACCOUNTS RECEIVABLE:

Current \_\_\_\_\_

Over 30 Days \_\_\_\_\_

Over 60 Days \_\_\_\_\_

NOTES RECEIVABLE DUE WITHIN 1 YEAR \_\_\_\_\_

MERCHANDISE INVENTORY: Cost/Market \_\_\_\_\_

OTHER CURRENT ASSETS:

\_\_\_\_\_

\_\_\_\_\_

**Total Current Assets**

\_\_\_\_\_

**Long Term Assets**

NOTES RECEIVABLE DUE AFTER 1 YEAR \_\_\_\_\_

LAND AND BUILDINGS (at cost) \_\_\_\_\_

&lt;Less&gt; Reserve For Depreciation \_\_\_\_\_

FIXTURES AND EQUIPMENT (at cost) \_\_\_\_\_

&lt;Less&gt; Reserve For Depreciation \_\_\_\_\_

PREPAID EXPENSES/DEFERRED CHANGES \_\_\_\_\_

OTHER LONG TERM ASSETS:

\_\_\_\_\_

\_\_\_\_\_

**Total Long Term Assets**

\_\_\_\_\_

**\* TOTAL ASSETS \***

=====

(BUSINESS FINANCIAL STATEMENT- Continued)

**LIABILITIES****Current Liabilities**

ACCOUNTS PAYABLE (past due) \_\_\_\_\_

ACCOUNTS PAYABLE (current) \_\_\_\_\_

NOTES PAYABLE DUE WITHIN 1 YEAR:

To Whom

Secured by

|       |       |       |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

NOTES & ACCOUNTS PAYABLE TO PARTNERS,  
DIRECTORS, OFFICERS, OR STOCKHOLDERS

ACCRUED LIABILITIES (interest, rental, payroll, etc.)

ACCRUED FEDERAL &amp; STATE TAXES

OTHER CURRENT LIABILITIES:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

**Total Current Liabilities**

=====

**Long Term Liabilities**

NOTES PAYABLE DUE AFTER 1 YEAR:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

OTHER LIABILITIES:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

**Total Long Term Liabilities**

=====

**TOTAL LIABILITIES**

\_\_\_\_\_

**NET WORTH**

CAPITAL STOCK (if corporation)

OWNER CAPITAL

|       |
|-------|
| _____ |
| _____ |

**TOTAL NET WORTH**

\_\_\_\_\_

**\* TOTAL LIABILITIES & NET WORTH \***

=====



**E. CREDIT WORTHINESS**

*(Attach additional pages as necessary.)*

**E. REFERENCES****Reference Type:** \_\_\_\_\_

*Duplicate this page and submit one reference page for each reference type (financial, vendor, or client) required in the instructions.*

**REFERENCE NO. 1**

Name/Firm \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_

Acct. Type(s) &amp; Number(s) \_\_\_\_\_

Type of Business Relationship \_\_\_\_\_

Length of Association \_\_\_\_\_

**REFERENCE NO. 2**

Name/Firm \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_

Acct. Type(s) &amp; Number(s) \_\_\_\_\_

Type of Business Relationship \_\_\_\_\_

Length of Association \_\_\_\_\_

**REFERENCE NO. 3**

Name/Firm \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_

Acct. Type(s) &amp; Number(s) \_\_\_\_\_

Type of Business Relationship \_\_\_\_\_

Length of Association \_\_\_\_\_

**REFERENCE NO. 4**

Name/Firm \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_

Acct. Type(s) &amp; Number(s) \_\_\_\_\_

Type of Business Relationship \_\_\_\_\_

Length of Association \_\_\_\_\_

**II. PROPOSAL INFORMATION***(Attach separate pages as necessary)***A. OPERATION PLAN**

- ☒ Vision/Mission Statement
- ☒ Organizational Structure
- ☒ Transition/Business Start-up
- ☒ Customer Service
- ☒ Employee Staffing & Training
- ☒ Marketing and Advertising
- ☒ Community Involvement
- ☐ No Operation Plan Required
- ☒ Products, Merchandise, and Services
- ☒ Prices and Pricing Policies
- ☒ Conservation and Recycling
- ☒ Accessibility
- ☒ Healthy Foods Initiative
- ☐ Other: \_\_\_\_\_

**B. FACILITY PLAN**

- ☒ Furnishings
- ☒ Capital Improvement Projects
- ☒ Maintenance and Housekeeping Program
- ☐ Other: \_\_\_\_\_
- ☐ No Facility Plan Required
- ☒ Implementation Plan
- ☒ Cost(s) estimates.
- ☐ Other: \_\_\_\_\_

**C. INTERPRETIVE PLAN**

- ☐ Proposer's Relevant Experience
- ☐ Business' Interpretive Theme
- ☐ Interpretive Programs and Activities
- ☐ Other: \_\_\_\_\_
- ☐ Other: \_\_\_\_\_
- ☐ Other: \_\_\_\_\_
- ☐ No Interpretive Plan Required
- ☒ Business' Ambiance
- ☐ Primary Education Programs
- ☐ Restaurant Operations

**D. RENTAL OFFER**

- ☒ Minimum Annual Rent: \_\_\_\_\_ \$20,000 (\$/year)
- ☒ Percentage Rent: \_\_\_\_\_ 12% (% of gross receipts)
- ☒ Percentage Rent Optional Catering: \_\_\_\_\_ 6% (% of gross receipts)

Minimum Annual Rent: \$ \_\_\_\_\_ (year)

Percentage Rent: \_\_\_\_\_ (% of gross receipts)

OPTIONAL CATERING \_\_\_\_\_ (% of gross receipts)

**E. CONCESSION FEASIBILITY**

*You may provide additional information, but do not alter the formats below in any way.  
You must respond to each item in the order listed with the information requested or N/A.*

**CONCESSION DEVELOPMENT COST ESTIMATE**

|  |       |
|--|-------|
| PRELIMINARY PLANNING AND DESIGN                | _____ |
| CONSTRUCTION OF INTERIOR IMPROVEMENTS/FIXTURES | _____ |
| EQUIPMENT/FURNISHINGS                          | _____ |
| AUTOS/TRUCKS                                   | _____ |
| STOCK/INVENTORY                                | _____ |
| LICENSES & PERMITS                             | _____ |
| PREPAID EXPENSES                               | _____ |
| OTHER COSTS:                                   |       |
| _____  | _____ |
| _____  | _____ |
| _____  | _____ |

**TOTAL DEVELOPMENT COSTS**

\_\_\_\_\_

**PROPOSED MEANS TO FINANCE CONCESSION**

|                                    |       |
|------------------------------------|-------|
| CONCESSIONAIRE SUPPLIED CAPITAL    | _____ |
| SHORT TERM LOANS (1 year or less)  | _____ |
| LONG TERM LOANS (more than 1 year) | _____ |
| SUPPLIER CREDIT                    | _____ |
| OTHER FINANCING:                   |       |
| _____                              | _____ |
| _____                              | _____ |
| _____                              | _____ |

**TOTAL FINANCING\***

\_\_\_\_\_

*\* Must meet or exceed "Total Development Costs" amount.*

**FINANCIAL PROFORMA**

Complete all aspects of this proforma for as they apply to your proposed concession operation. Round figures to the nearest dollar. Use additional pages as necessary to provide for a 10 year period.

| ITEM  | YEAR 1              | YEAR 2 | YEAR 3        | YEAR 4 | YEAR 5 |
|---|---------------------|--------|---------------|--------|--------|
| <b>GROSS PROFIT</b>   |                     |        |               |        |        |
| <b>Gross Sales</b>  |                     |        |               |        |        |
|   |                     |        |               |        |        |
|   |                     |        |               |        |        |
|   |                     |        |               |        |        |
| <b>Total Gross Sales (1)</b>                                    |                     |        |               |        |        |
| <b>&lt;Less&gt; Cost of Goods Sold (2)</b>                      |                     |        |               |        |        |
| <b>TOTAL GROSS PROFIT</b>                                       |                     |        |               |        |        |
| <b>OPERATING EXPENSES</b>                                       |                     |        |               |        |        |
| <b>Variable Operating Expenses</b>                              |                     |        |               |        |        |
| Salaries & Payroll Related                                      |                     |        |               |        |        |
| Taxes & Licenses (other than sales income)                      |                     |        |               |        |        |
| Insurance   |                     |        |               |        |        |
| Advertising   |                     |        |               |        |        |
| Maintenance & Repairs   |                     |        |               |        |        |
| Utilities (including telephone)                                 |                     |        |               |        |        |
| Legal & Accounting  |                     |        |               |        |        |
| Rent to State   |                     |        |               |        |        |
| Interest  |                     |        |               |        |        |
| Supplies & Material   |                     |        |               |        |        |
| Administrative Overhead   |                     |        |               |        |        |
| Travel & Transportation   |                     |        |               |        |        |
| Other:  |                     |        |               |        |        |
| Other:  |                     |        |               |        |        |
| Other:  |                     |        |               |        |        |
| Other:  |                     |        |               |        |        |
| <b>Total Variable Operating Expenses</b>                        |                     |        |               |        |        |
| <b>Fixed Operating Expenses</b>                                 |                     |        |               |        |        |
| Facility Improvements   |                     |        |               |        |        |
| Equipment Purchases   |                     |        |               |        |        |
| Amortization  |                     |        |               |        |        |
| Depreciation  |                     |        |               |        |        |
| Performance Bond  |                     |        |               |        |        |
| <b>Total Fixed Operating Expenses</b>                           |                     |        |               |        |        |
| <b>TOTAL OPERATING EXPENSES (3)</b>                             |                     |        |               |        |        |
| <b>* NET INCOME *</b><br><i>(before income taxes)</i>           |                     |        |               |        |        |
| (1) EXPLAIN HOW YOU ARRIVED AT THE PROJECTED TOTAL GROSS SALES. |                     |        |               |        |        |
| (2) EXPLAIN HOW YOU CALCULATED COST OF GOODS SOLD.              |                     |        |               |        |        |
| (3) EXPLAIN HOW YOU CALCULATED TOTAL OPERATING EXPENSES         |                     |        |               |        |        |
| PREPARER SIGNATURE<br>▶   | TITLE               |        | DATE          |        |        |
| PRINTED NAME  | PHONE NUMBER        |        | EMAIL ADDRESS |        |        |
| ADDRESS   | CITY/STATE/ZIP CODE |        |               |        |        |

### **III. PROPOSAL SUMMARY**

*(Attach separate pages as necessary)*



**IV. CERTIFICATION AND AUTHORIZATION****A. LABOR LAW COMPLIANCE CERTIFICATION**

I hereby certify that:

PROPOSER NAME \_\_\_\_\_


FEDERAL EMPLOYER ID NUMBER \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP CODE \_\_\_\_\_

has not had more than one, final, unappealable finding of contempt of court by a federal court issued against the proposer for any violation of National Labor Relations Act provisions within the two-year period immediately preceding the closing date for acceptance of proposals under this Request for Proposals.

Additionally, I, the signatory, do hereby swear that I am duly authorized to legally execute the certification described above on behalf of the proposer. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

|  |               |
|--|---------------|
| SIGNATURE<br> | DATE EXECUTED |
| SIGNATORY'S PRINTED NAME   | TITLE         |

## B. PROPOSER CERTIFICATION

I/We am (are) personally acquainted with the premises of the subject concession and I/we have read, understand, and agree with the terms and conditions specified in this RFP document, including the Sample Concession Contract.

I/We meet the required experience qualifications and/or currently employ a Concession Manager who meets the qualifications.

I/We have the necessary financial resources to equip and operate the concession and perform the proposed capital investments, and I/we have enclosed a cashier's check or Proposer's Bond in the required amount, payable to the Department of Parks and Recreation, as a guarantee that, in the event my/our proposal is accepted and approved by the State, I/we will:

1. Execute and complete the Concession Contract, incorporating this proposal and all the terms and conditions contained in the RFP. The Concession Contract then will be executed by the State upon approval by the appropriate State agencies;
2. Provide the Performance Bond as required by the Concession Contract upon execution of the Contract by State; and
3. Provide the proposed guarantees, including rent, capital investments, equipment, and management and operation services.

I/We hereby certify that all responses and information provided in connection with this proposal are true to the best of my/our knowledge and belief, and I/we understand and agree that any misstatement or omission of any material fact may cause forfeiture on my/our part of all rights to the proposed agreement to be awarded by the State of California.

I/We hereby respectfully submit this proposal, including all required documents and statements. I/We represent that the signatories hold the positions set forth below their signatures and are authorized to execute this proposal.

*If the proposal is made by a sole proprietor, this form shall be signed with the full name of the proposer. If it is made by a partnership, a limited partnership, or a joint venture, it shall be signed with the full name of each partner or member thereof. If it is made by a corporation, it shall be signed by: (1) the President, any Vice President, or the Chairman of the Board; and (2) by the Corporation Secretary, any Assistant Secretary, Chief Financial Officer, or any Assistant Treasurer.*

|                |                                |         |
|----------------|--------------------------------|---------|
| SIGNATURE<br>▶ | POSITION/TITLE AND/OR FUNCTION | DATE    |
| PRINTED NAME   | PHONE NUMBER                   | FAX NO. |
| ADDRESS        | CITY/STATE/ZIP CODE            |         |
| SIGNATURE<br>▶ | POSITION/TITLE AND/OR FUNCTION | DATE    |
| PRINTED NAME   | PHONE NUMBER                   | FAX NO. |
| ADDRESS        | CITY/STATE/ZIP CODE            |         |
| SIGNATURE<br>▶ | POSITION/TITLE AND/OR FUNCTION | DATE    |
| PRINTED NAME   | PHONE NUMBER                   | FAX NO. |
| ADDRESS        | CITY/STATE/ZIP CODE            |         |


State of California - The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

**C. AUTHORIZATION TO RELEASE INFORMATION**

***(General)***

To Whom It May Concern:

I/my company have (has) submitted a proposal to the State of California, Department of Parks and Recreation, for a concession operation. I hereby authorize you to release or discuss any or all information in your possession pertaining to me as requested by an employee or representative of the State of California, Department of Parks and Recreation in connection with or to verify information submitted by me in the above-referenced proposal.

|   |             |
|---|-------------|
| PROPOSER SIGNATURE<br> | DATE SIGNED |
| PRINTED NAME  |             |
| POSITION/TITLE  |             |
| COMPANY NAME <i>(if applicable)</i>   |             |

## V. PRIVACY NOTICE

*Section 1798.17 of the Civil Code requires this notice be provided when collecting personal information from individuals. Each individual has the right to review his or her personal information maintained by this department unless exempted by law.*

### **OFFICIAL RESPONSIBLE**

Chief, Concessions and Reservations  
California Department of Parks and Recreation  
P.O. Box 942896  
Sacramento, CA 94296-0001  
(916) 653-7733

### **AUTHORITY**

Public Resources Code Section 5080.08(a) and 5080.08(b)

### **PURPOSE**

The information will be used for the purposes of evaluation to determine capabilities of proposers to perform the contract and to determine the best responsible proposer if an award is made.

### **PROVIDING INFORMATION**

All information requested is mandatory.

### **EFFECTS OF NOT PROVIDING INFORMATION**

If the requested information is not provided, the proposal will be determined to be not responsive and will be rejected.

### **KNOWN OR FORESEEABLE DISCLOSURES OF INFORMATION PURSUANT TO CIVIL CODE SECTIONS 1798.24, SUBDIVISIONS (e) OR (f)**

Disclosure may be made to the Department of General Services, Office of the Attorney General, Department of Finance, Office of the Auditor General, or the Department of Parks and Recreation Audits Office.

SAMPLE CONCESSION CONTRACT

FOR

Beach Concession Stands

AT

Huntington and Calafia portion of San Clemente State Beaches

STATE OF CALIFORNIA – RESOURCES AGENCY  
DEPARTMENT OF PARKS AND RECREATION  
CONCESSIONS AND RESERVATIONS DIVISION  
1416 NINTH STREET, 14<sup>TH</sup> FLOOR  
SACRAMENTO, CA 95814



Beach Stands  
CONCESSION CONTRACT  
INDEX

|     |  |    |
|-----|--|----|
| 1.  | DESCRIPTION OF PREMISES .....                          | 2  |
| 2.  | CONDITION OF PREMISES.....                             | 2  |
| 3.  | TERM .....   | 2  |
| 4.  | RENT.....  | 3  |
| 5.  | USE OF PREMISES.....                                   | 5  |
| 6.  | BONDS.....   | 7  |
| 7.  | INSURANCE .....  | 9  |
| 8.  | LIABILITY WAIVER.....                                  | 11 |
| 9.  | ALCOHOLIC BEVERAGES.....                               | 12 |
| 10. | CONSTRUCTION AND COMPLETION OF IMPROVEMENTS .....      | 12 |
| 11. | CONTRACT NOTICE .....                                  | 17 |
| 12. | RECORDS AND REPORTS.....                               | 17 |
| 13. | GROSS RECEIPTS.....                                    | 19 |
| 14. | RATES, CHARGES AND QUALITY OF GOODS AND SERVICES ..... | 19 |
| 15. | PERFORMANCE EVALUATIONS AND INSPECTION .....           | 19 |
| 16. | HOLD HARMLESS AGREEMENT .....                          | 20 |
| 17. | TAXES.....   | 21 |
| 18. | MODIFICATIONS, ADDITIONS, TITLE TO IMPROVEMENTS.....   | 21 |
| 19. | PERSONAL PROPERTY .....                                | 22 |
| 20. | HOUSEKEEPING, MAINTENANCE, REPAIR AND REMOVAL .....    | 22 |
| 21. | UTILITIES AND SERVICES.....                            | 24 |
| 22. | RESOURCE CONSERVATION .....                            | 24 |
| 23. | HAZARDOUS SUBSTANCES.....                              | 26 |
| 24. | EQUIPMENT .....  | 28 |
| 25. | SIGNS AND ADVERTISING .....                            | 28 |
| 26. | PHOTOGRAPHY.....                                       | 28 |
| 27. | INTELLECTUAL PROPERTY RIGHTS.....                      | 28 |
| 28. | PARTICIPATION IN STATE PARK MARKETING PROGRAMS.....    | 30 |
| 29. | DEFAULT BY CONCESSIONAIRE .....                        | 30 |



|     |   |     |
|-----|---|-----|
| 30. | STATE’S REMEDIES .....                                      | 32  |
| 31. | DEFAULT BY STATE.....                                       | 36  |
| 32. | STATE BUY-OUT PROVISIONS .....                              | 36  |
| 33. | SURRENDER OF THE PREMISES; HOLDING OVER.....                | 38  |
| 34. | NO RECORDATION; QUITCLAIM .....                             | 39  |
| 35. | ATTORNEYS FEES .....  | 39  |
| 36. | EXPATRIATE CORPORATIONS .....                               | 40  |
| 37. | COMPLIANCE WITH LAWS, RULES, REGULATIONS AND POLICIES ..... | 40  |
| 38. | NONDISCRIMINATION .....                                     | 40  |
| 39. | DISABILITIES ACCESS LAWS.....                               | 41  |
| 40. | DRUG-FREE WORKPLACE .....                                   | 42  |
| 41. | NATIONAL LABOR RELATIONS BOARD CERTIFICATION.....           | 42  |
| 42. | CHILD SUPPORT COMPLIANCE ACT.....                           | 42  |
| 43. | CONFLICT OF INTEREST .....                                  | 43  |
| 44. | WAIVER OF CLAIMS.....                                       | 43  |
| 45. | WAIVER OF CONTRACT TERMS.....                               | 43  |
| 46. | INTERPRETATION OF CONTRACT .....                            | 44  |
| 47. | DURATION OF PUBLIC FACILITIES.....                          | 44  |
| 48. | TIME OF ESSENCE.....  | 44  |
| 49. | EMINENT DOMAIN .....  | 44  |
| 50. | TEMPORARY TENANCY.....                                      | 44  |
| 51. | SECTION TITLES .....  | 45  |
| 52. | CONTRACT IN COUNTERPARTS .....                              | 45  |
| 53. | INDEPENDENT CONTRACTOR .....                                | 45  |
| 54. | ASSIGNMENTS AND SUBCONCESSIONS .....                        | 45  |
| 55. | MODIFICATION OF CONTRACT .....                              | 45  |
| 56. | UNENFORCEABLE PROVISION.....                                | 46  |
| 57. | APPROVAL OF CONTRACT .....                                  | 46  |
| 58. | STATE’S DISTRICT SUPERINTENDENT .....                       | 46  |
|     | EXHIBIT A – THE PREMISES (Calafia).....                     | A-1 |
|     | EXHIBIT A – THE PREMISES (Huntington) .....                 | A-2 |

|   |     |
|---|-----|
| EXHIBIT B - CONSUMER PRICE INDEX ADJUSTMENT FORMULA .....           | B-1 |
| EXHIBIT C -DPR 54, CONCESSIONAIRE’S MONTHLY REPORT OF OPERATION C-1 |     |
| EXHIBIT D –WAIVER OF LIABILITY AND RELEASE .....                    | C-1 |
| EXHIBIT E - DPR 86, CONCESSIONAIRE FINANCIAL STATEMENT .....        | E-1 |
| EXHIBIT F DPR 531 CONCESSION PERFORMANCE RATING .....               | F-1 |
| EXHIBIT G - DRUG FREE WORKPLACE CERTIFICATION.....                  | G-1 |
| EXHIBIT H - PROPOSER’S OPERATION PLAN .....                         | H-1 |
| EXHIBIT I - PROPOSER’S FACILITY PLAN .....                          | I-1 |
| EXHIBIT J - PROPOSER’S INTERPRETIVE PLAN .....                      | J-1 |

STATE OF CALIFORNIA  
DEPARTMENT OF PARKS AND RECREATION

**SAMPLE CONCESSION CONTRACT**

For

**Beach Stand Operations**

Located within

Huntington and/or Calafia portion of San Clemente State Beaches

Orange County

THIS CONTRACT is made and entered into by and between the STATE OF CALIFORNIA, acting through its Department of Parks and Recreation, hereinafter referred to as "State", and **ConcessionaireName** of **City, State**, hereinafter referred to as "Concessionaire";

**RECITALS**

**WHEREAS**, California Public Resources Code Section 5080.03 et seq. authorizes the Department of Parks and Recreation to enter into concession contracts for the operation of state park system lands and facilities and;

**WHEREAS**, it is appropriate that the following contract be entered into for the safety and convenience of the general public in the use and enjoyment of, and the overall enhancement of recreational and educational experience at units of the state park system;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN  
THE PARTIES AS FOLLOWS:**

### 1. **DESCRIPTION OF PREMISES**

The State for and in consideration of the agreements hereinafter stated, grants to Concessionaire for the purposes stated herein, the right, privilege, and duty to develop, equip, operate, and maintain nonexclusive concessions within Huntington and/or the Calafia portion of San Clemente State Beaches at the specific location(s) as set forth in **Exhibit A**, attached hereto and made a part of this contract (the "Premises"). Premises shall include three (3) beach stand facilities located at Brookhurst Street, Magnolia Street and Beach Blvd within Huntington SB, excluding restrooms; and one (1) beach stand at Calafia Beach; and up to fifty (50) feet of the surrounding beach stand area within each of the respective park units.

The possessory interest herein given to the Concessionaire does not exclude the general public from the Premises; however, the use by the general public is limited by the terms and conditions of the possessory interest given herein. This contract is not intended to confer third party beneficiary status to any member of the public who is benefited by the terms of this contract. The possessory interest is further subject to all valid and existing contracts, leases, licenses, encumbrances, and claims of title that may affect the Premises.

### 2. **CONDITION OF PREMISES**

The taking of possession of the Premises by the Concessionaire, in itself, shall constitute acknowledgment that the Premises are in good and sufficient condition for the purposes for which Concessionaire is entering into this contract. Concessionaire agrees to accept Premises in their presently existing condition, "AS IS", and that the State shall not be obligated to make any alterations, additions, or betterments to the Premises except as otherwise provided for in this contract.

### 3. **TERM**

The term of this contract shall be for a period of ten (10) years, commencing on the first day of the month following approval by the California Department of General Services. Should Concessionaire hold-over after the expiration of the term of this contract with the express or implied consent of the State, such holding-over shall be

deemed to be a tenancy from month-to-month at the herein stated prescribed rent as set forth in this contract in Section 33, "Surrender of Premises; Holding Over", of this contract, with continuous Consumer Price Index adjustment, as defined below, subject otherwise to all the terms and conditions of this contract.

Beginning with Contract Year Two (2) and on the first day of each contract year thereafter, the Minimum Annual Rent shall be adjusted to reflect changes in the Consumer Price Index (CPI). Such CPI adjustments shall be made in accordance with the procedure set forth in **Exhibit B**, attached to and made a part of this contract.

For purposes of this contract, the term "contract year" shall mean each one-year period of time that commences on the commencement date identified above, extending twelve (12) months therefrom, and continuing from each anniversary throughout the term of the contract.

#### **4. RENT**

Concessionaire shall pay, without offset, deduction, prior notice, or demand, as "Minimum Annual Rent" the sum of **(as provided in each successful proposal)**:

- \_\_\_ **Minimum Annual Rent; or**
- \_\_\_ **Percent of Gross Receipts, except for on-site catering services; and**
- \_\_\_ **Percent of Gross Receipts for on-site catered events authorized under a Special Event Permit issued by Orange Coast District Office.**

Beginning with Contract Year Two (2) and on the first day of each contract year thereafter, the Minimum Monthly/Annual Rent shall be adjusted to reflect changes in the Consumer Price Index (CPI). Such CPI adjustments shall be made in accordance with the procedure set forth in **Exhibit B**, attached hereto and made a part of this contract.

Concessionaire shall make payment of Minimum Annual Rent and other payments to State in lawful money of the United States. However, if any payment made by a check, draft, or money order is returned to State due to insufficient funds or otherwise, State shall have the right, at any time after the return, upon written notice to Concessionaire, to require Concessionaire to make all subsequent payments in cash or by cashier's or certified check.

Beginning with the fifteenth (15<sup>th</sup>) day of the month following the execution of the contract [opening of the concession for business], and on or before the fifteenth (15<sup>th</sup>) day of each month thereafter, Concessionaire shall furnish to State a verified statement of the concession's gross receipts for the preceding month. Such statement shall be submitted on Form DPR 54, "Concessionaire's Monthly Report of Operation", attached hereto as **Exhibit C**, or in a format previously approved by the State, and shall specify the current period and cumulative total of gross receipts for the concession through the end of the preceding month for the then current contract year. Concurrent with such monthly statement, the Concessionaire shall pay to State the appropriate rental fee for the preceding calendar month as prescribed above. Payments to State shall be made to the order of the Department of Parks and Recreation and delivered to the District Office identified herein below or at such other location as may from time to time be designated by State. If, at the end of the contract year, the total of monthly percentage rental payments made (or due) during that contract year is less than the Minimum Annual Rent required for that contract year, the difference shall be remitted to State with the last monthly sales statement for the contract year. Payments must be received by State on or before the fifteenth (15<sup>th</sup>) day of the month as described above. Any late payment shall constitute a breach of contract, giving rise to State's remedies as set forth below. Further, any late payment will be subject to a late penalty consisting of an administrative charge on the late amount, calculated at the rate of five percent (5%) of the amount of the late payment or portion thereof. The parties agree that the late charge represents a fair and reasonable estimate of the costs State will incur because of late payment. Acceptance of the late charge by State shall not constitute a waiver of Concessionaire's default for the overdue amount, nor prevent State from exercising the other rights and remedies granted under this contract. Concessionaire shall pay the late charge as additional rent with the next monthly rent payment.

\_\_\_\_\_ **[Initials of concessionaire(s)]**

Any amount due to State, if not paid within five (5) days following the due date, will bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate legally permitted. However, interest shall not be payable on late charges incurred by Concessionaire, nor on any



amounts on which late charges are paid by Concessionaire, to the extent this interest would cause the total interest to be in excess of that legally permitted. Payment of interest shall not excuse or cure any default by Concessionaire.

Upon written request by the Concessionaire to State demonstrating unusual or extenuating circumstances causing the late payment, the State, in its sole discretion, may waive the late charge. Further, in the event Concessionaire is prevented from carrying on the operations contemplated herein by reason of an Act of Nature or other reasons beyond Concessionaire's control, and when requested in writing in advance by Concessionaire, Minimum Rent may be abated in proportion to the amount by which gross receipts are reduced by the occurrence for such period of reduced or non-operation, as determined in the sole discretion of State.

If this contract is terminated by State because of Concessionaire's default, and if Concessionaire becomes liable for any deficiency in rent and/or fees by way of damages or otherwise, or if at any time during the contract term Concessionaire ceases to conduct in the Premises the business referred to herein below, then from and after the time of the breach causing this termination, or from and after the time of the cessation of business, all unpaid rent and/or fees prior to the breach causing termination or cessation of business shall become due and payable. The amount due shall be deemed to be the greater of: (a) the Minimum Rent provided herein, or (b) an amount based upon the average of the payments that have accrued to State as percentage rent during the twenty-four (24) months preceding the termination or cessation of business, unless the termination or cessation occurs within three (3) years of the beginning of the contract term, in which event the previous twelve (12) (or fewer, if applicable) months shall be used as the basis of this average.

## **5. USE OF PREMISES**

The Premises shall be used by the Concessionaire for the operation and maintenance of beach concession stand(s) as described below.

- A. Beach Stand: At a minimum, the beach concession stand(s) and surrounding plaza shall be equipped, operated, and maintained for the sale of hot and cold

foods, beverages, beach and camping sundries, and the sale and rental of beach-related recreational equipment. Bottled water and sunscreen of SPF 15 or higher shall be offered for sale. All sale items are subject to approval of the District Superintendent.

- B. Mobile Food Service: Upon consent by State, Concessionaire may provide, maintain, and operate a mobile food service for the sale of food, beverages, and beach sundries.
- C. Catering Services: Concessionaire may provide exclusive catering service within the Premises described in Section 1, Description of Premises, and non-exclusive catering at other areas of the beach under a Special Event Permit issued by the Orange Coast District according to Department guidelines. Rent to the State for such catered events is described in Section 4, Rent.
- D. Healthy Foods Initiative: As the primary food providers within California State Parks, participation by concessionaires in the State's efforts to promote healthy and sustainable food practices is critical. To that end and in accordance with State's mission to "provide for the health" of Californians, Concessionaire shall promote the importance of healthy, locally and sustainably grown, organic foods, and shall use sustainable practices, organic ingredients, and recycled products whenever possible. These practices shall include the following:
  - 1) To the extent possible, Concessionaire shall develop a network of local farmers and ranchers who are dedicated to sustainable agriculture and can assure a steady supply of pure and fresh ingredients.
  - 2) Concessionaire shall offer a selection of food and beverage items that conform to the definition of "healthy" foods as defined by the U.S. Department of Agriculture and the Food and Drug Administration in the Code of Federal Regulations, Title 9, Section 317 and Title 21, Section 101.
  - 3) Concessionaire shall offer a selection of beverages with no sugar added, such as bottled water, natural fruit juices, and tomato juice.

- 4) To the extent possible, Concessionaire shall provide food products that are as pure and natural as possible, without synthetic additives, pollutants, or unnecessary packaging and marketing.

The Use of Premises will be consistent with the State approved "Operation Plan", "Interpretive Plan", and "Facility Plan" as proposed by Concessionaire and modified by State as is reasonable and necessary to meet the intention of the State for this concession operation and the mission of the Department. The approved "Operation Plan", "Facility Plan", and "Interpretive Plan" are incorporated herein and made part of this contract as **Exhibits H, I, and J**, respectively.

Concession services shall be provided during park hours as early as 6 a.m. to at least 9 p.m. on all weekends and holidays from the first Saturday in April through September 30<sup>th</sup> and between the hours of 10:00 a.m. and 5:00 p.m. on weekdays from Memorial Day through Labor Day during each year of the contract. In the event State deems the hours of operation inadequate for proper service to the public, State may require Concessionaire to adjust the days and/or hours of operation to a schedule provided by State. Concessionaire may remain open on other dates, observing same or longer hours, at Concessionaire's discretion with the concurrence of State. In the event of adverse weather or other operating conditions, State may permit the concession to close at any time during the term of this contract. Concessionaire shall not use or permit the Premises to be used in whole or in part during the term of this contract for any purpose other than as herein set forth without the prior written consent of the State.

## 6. **BONDS**

All bonds required under this contract must be in a form satisfactory to State, issued by a corporate surety licensed to transact surety business in the State of California.

- A. **Performance Bond:** Concessionaire, at Concessionaire's own cost and expense, agrees to obtain and deliver to State, prior to the commencement date of this contract and prior to entering the Premises, and shall maintain in force throughout the term of this contract, a valid Performance Bond (which may be

renewed annually) in the sum of one year's Minimum Annual Rent payable to the State. This bond shall insure faithful performance by Concessionaire of all the covenants, terms, and conditions of this contract inclusive of, but not restricted to, the payment of all rentals, fees, and charges and prompt performance of and/or payment for all maintenance obligations. In lieu of a bond, the Concessionaire may substitute another financial instrument (such as an Irrevocable Standby Letter of Credit), which must be sufficiently secure and acceptable to State. At least thirty (30) days prior to the expiration or termination of said bond or acceptable financial instrument, a signed endorsement or certificate showing that said bond or financial instrument has been renewed or extended shall be filed with the State. Within 15 days of State's request, Concessionaire shall furnish State with a signed and complete copy of the valid bond or financial instrument.

B. Construction Payment Bond: Prior to the commencement of construction required hereunder, Concessionaire shall furnish the State with a bond, listing Concessionaire's contractor(s) as principals, in a sum not less than **fifty percent (50%)** of the total cost of the construction. The bond shall guarantee payment by Concessionaire of all materials, provisions, provender, supplies, and equipment used in, upon, for, or about the performance of said construction, and protects the State from any liability, losses, or damages arising therefrom. In no event shall Concessionaire allow the imposition of a mechanics' lien or other lien on the concession property, and at its sole expense shall take all steps to remove such liens or the threat of such liens.

C. Construction Performance Bond: Prior to the commencement of construction required hereunder, Concessionaire shall furnish the State with a bond, listing Concessionaire's contractor(s) as principals, in a sum not less than **fifty percent (50%)** of the total cost of the construction. The bond shall guarantee faithful performance of the construction by Concessionaire. Concessionaire acknowledges that allowing the Performance Bond or other security instrument(s) to expire or otherwise terminate and/or allowing the total secured amount to fall below the security required herein will cause State to

incur costs and significant risks not contemplated by this contract, the exact amount of which will be difficult to ascertain. These costs include, but are not limited to, administrative costs and other expenses necessary to ensure continued performance of services for the public and protection of the Premises. Accordingly, if Concessionaire allows the Performance Bond or other security instrument to expire or otherwise terminate and/or allows the total secured amount to fall below the security required pursuant to this contract, Concessionaire shall pay to State an amount equal to five percent (5%) of the required security or five thousand dollars (\$5,000), whichever is greater. The parties agree that this charge represents a fair and reasonable estimate of the costs State will incur. Acceptance of this charge by State shall not constitute a waiver of Concessionaire's default, nor prevent State from exercising the other rights and remedies available to it under this contract or applicable law, including the right to terminate this contract and seek the payment of damages.

\_\_\_\_\_ **[Initials of concessionaire(s)]**

## **7. INSURANCE**

A. Concessionaire shall provide before entering the Premises and shall maintain in force throughout the term of this contract the following insurance:

- 1) Commercial Liability Insurance. Concessionaire shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with \$2,000,000 annual policy aggregate. The policy shall include coverage for liabilities arising out of Premises, operations, independent contractors, products, completed operations, personal and advertising injury.
- 2) Liquor Liability. Where alcohol sales are permitted under approved Special Event Permit, Concessionaire shall include liquor liability with limits no less than \$1,000,000.
- 3) Automobile Liability. Concessionaire shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per

accident. Such insurance shall cover liability arising out of motor vehicles including owned, hired and non-owned motor vehicles used by Concessionaire in the conduct of business under this contract.

4) Workers' Compensation Insurance: Concessionaire shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of this contract. Employer's liability limits of \$1,000,000 are required.

5) Property Fire Insurance: Concessionaire shall provide property coverage for damage caused by fire, vandalism or natural disaster with limits based on the estimated replacement value of facilities occupied by Concessionaire.

B. In the event of destruction, loss, or damage by fire or other cause of any of the State-owned buildings, improvements, or fixtures located on the Premises that the State determines (1) to be essential to the continued operation of the contract and (2) cannot be repaired within one-hundred-eighty (180) days of the occurrence, the State may terminate this contract. A decision by the State to terminate the contract under this provision shall be communicated in writing to Concessionaire as soon as practicable. If the contract is so terminated, State shall be entitled to the proceeds payable under any applicable insurance policies pertaining to the loss as its interest may appear. Receipt of such proceeds by State shall be in addition to the right of State to pursue whatever other remedies it may have to recover any losses due to the occurrence. If the State determines not to terminate the contract, then, in State's discretion, any buildings, improvements, or fixtures built in replacement of any damaged or destroyed property shall be subject to the terms and provisions of this contract as if they had existed at the onset. In no event shall the provisions of this Section be deemed or construed to relieve Concessionaire from the requirement to repair or replace any damaged or destroyed property except as specifically excepted by express terms of this contract.

C. Each policy of liability insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Concessionaire's



limit of liability. The policy must include the State of California, Department of Parks and Recreation, its officers, agents, employees and servants as additional insured. This endorsement must be supplied under form acceptable to State. Any subcontractors shall be included under Concessionaire's policy or provide evidence of coverage equal to limits and policies required of Concessionaire.

D. Insurance policies shall contain a provision stating coverage will not be cancelled without 30 days prior written notice to State. In the event Concessionaire fails to keep in effect at all times the specified insurance coverage, State may, in addition to other remedies it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.

E. Each policy shall be underwritten to the satisfaction of the State. Concessionaire shall submit to State a signed and complete certificate of insurance with all endorsements required by this Section, showing to the satisfaction of State that such insurance coverage has been renewed or extended. Within fifteen (15) days of State's request, Concessionaire shall furnish State with a signed and complete copy of the required policy.

## **8. LIABILITY WAIVER**

Concessionaire shall require that a liability waiver, equivalent to the waiver attached hereto as **Exhibit D**, "Waiver of Liability and Release" and incorporated herein by this reference, be executed between Concessionaire and each concession patron who rents equipment. Such waiver is subject to the State's approval and shall release State, its officers, employees, and agents from any liability resulting from any claim associated with services, equipment, and activities provided and facilitated on each rental or tour. The liability waiver text shall be pre-printed, and must be signed by every person participating in each rental or tour within the Premises as permitted in this contract. Concessionaire shall make signed liability waivers available to State inspection and shall provide copies upon request. All required waivers shall comply with any and all conditions precedent to insurance coverage as required herein.

## 9. **ALCOHOLIC BEVERAGES**

Notwithstanding anything to the contrary, the sale of liquor, beer, or other alcoholic beverages on the Premises is expressly prohibited. Exception to this restriction may be allowed through the special event permit process, as approved by State.

## 10. **CONSTRUCTION AND COMPLETION OF IMPROVEMENTS**

A. Facility Plan – Calafia, San Clemente State Beach: At Concessionaire's sole cost and expense, Concessionaire shall be responsible for the design, construction, and completion, and installation of facility improvements, décor, equipment, fixtures, and furnishings as described in the Concessionaire's "Facility Plan", marked as **Exhibit I**, attached hereto and made part of this contract. The Calafia facility improvements to be completed prior to commencement of operation, and in accordance with Section 5, Use of Premises, include modifications of facility to meet visitor accessibility requirements, plumbing, roofing, security and lighting enhancements, and termite damage repairs. Any penalties, lien charges, and/or costs to resolve construction related disputes shall not be included in the minimum expenditure amount.

Facility Plan – Huntington State Beach: At Concessionaire's sole cost and expense, Concessionaire shall be responsible for the design, construction, completion, and installation of facility improvements, décor, equipment, fixtures, and furnishings as described in the Concessionaire's "Facility Plan", marked as **Exhibit I**, attached hereto and made part of this contract. Facility improvements include modifications to meet visitor accessibility requirements within one year of contract execution, lighting and landscape enhancements. Any penalties, lien charges, and/or costs to resolve construction related disputes shall not be included in the minimum expenditure amount.

B. Implementation of the plan will be as follows:

- 1) Plan Amendment: Within thirty (30) days of the execution of this contract, Concessionaire shall meet with State to amend the Facility Plan as is reasonable and necessary to meet the intention of the State for this concession operation and the mission of the Department.
- 2) Schematic Design: Within four (4) weeks of amending the Facility Plan, Concessionaire shall provide to State for its review and approval a Schematic Design. The State shall not unreasonably withhold such approval. The objective of the Schematic Design is to clearly define the Facility Development Plan as amended and should include a site plan, building floor plans, all building elevations, outline specification, floor area usage, and Preliminary Statement of Probable Construction Cost. If the State disapproves any element of the program statement, Concessionaire shall promptly submit to State all necessary modifications and revisions.
- 3) Design Development: Within four (4) weeks of State's approval of Concessionaire's Schematic Design, Concessionaire shall submit the Design Development for State's review and approval. The State shall not unreasonably withhold such approval. The objective of the Design Development is to define and describe all the important aspects of the Facility Development project and should include the necessary details of each element of the Schematic Design to adequately convey key conditions of major improvements. In addition, the Design Development should include Reflected Ceiling Plans, Schedules, Structural Requirements, Plumbing, Mechanical, and Electrical Plans, Food Service Requirements, Color Boards, Material and Systems Specifications, and an updated Preliminary Statement of Probable Construction Cost. If the State disapproves any element of the Design Development, Concessionaire shall promptly submit necessary modifications and revisions.
- 4) Working Drawings: Within four (4) weeks of State's approval of Concessionaire's Design Development, Concessionaire shall submit Working Drawings for State's review and approval. The State shall not

unreasonably withhold such approval. The objective of the Working Drawings is to set forth in detail the requirements for construction of the Facility Development Plan including bidding and contracting. At a minimum, the drawings should include all Design Development elements plus: complete documentation of quantities, qualities, and relationships of all work required to construct the Facility Plan; documentation of decisions made in the Design Development phase; all documentation needed for obtaining regulatory and State approvals; and the final Statement of Probable Construction Cost. If the State disapproves any drawings, plans or specifications, Concessionaire shall promptly submit necessary modifications and revisions. Once approved, the Working Drawings will be made a part of the Facility Plan and incorporated as **Exhibit I** in this contract. No changes or alterations shall be made to the approved Working Drawings without prior written approval of State.

C. Use of Consultants: Concessionaire shall employ licensed contractor(s) in the completion of all required construction work. Additionally, Concessionaire shall utilize professional contractors and consultants, including architects(s) and engineer(s), acting in accordance with the latest American Institute of Architects' standards of practice to develop comprehensive construction plans, including schematic design plans, design development plans, and working drawings, and to conduct independent inspections and monitoring of all construction.

Concessionaire agrees to select contractors and consultants who are licensed to practice in the State of California and are acceptable to the State. However, in no event shall State be deemed to have control of or be responsible for Concessionaire's final hiring decisions, the day-to-day management of the project, or administration of contracts with contractors or consultants. Contracts between Concessionaire and any contractor or consultant must be approved in writing by State in advance of execution by Concessionaire.

D. State Approval/Acceptance of Plans and Work: State's approval of the work and plans shall be for the purpose of determining that such work conforms in scope and quality to State's policies and standards, and in no way shall relieve

Concessionaire or its contractors or subcontractors of the responsibility to perform and complete the work (1) in accordance with generally accepted industry standards, (2) faithfully adhering to the approved plans, specifications, and drawings, and (3) in accordance with all applicable codes, laws, regulations, or other requirements, including but not limited to, the standards contained in this contract.

E. Permits: At its sole cost and expense, including mitigation costs, Concessionaire shall obtain all permits, licenses, and other approvals necessary for the construction and completion of the Facility Plan. Such permits may include, but are not limited to, those required under the California Environmental Quality Act (CEQA), Public Resources Code 5024, County Fire Department, California Coastal Act, California Building Code, and State Fire Marshal. Concessionaire shall reimburse State for all costs incurred by State on behalf of Concessionaire in association with acquisition of said permits. State will produce records of such costs for review by Concessionaire on a monthly basis. The State shall cooperate with Concessionaire with respect to securing said permits including the execution of documents required by a governmental authority to be initiated by State. In the event Concessionaire, having exercised all due diligence in applying for and seeking all approvals, cannot secure all required permits within two (2) years from Concessionaire's taking possession of the premises, the State shall have the option to terminate this contract.

F. Alterations: It is the intent of this contract and the contracting parties that the concession facilities contemplated herein shall not only be constructed in accordance with the requirements herein, but in coordination with State's development of the unit. The State, in its discretion after consultation with Concessionaire, may alter the Facility Development Plan and Working Drawings, and/or the construction timeline to agree with its schedule of development for the unit. Any changes to the timeline shall not be earlier than the dates set forth in the Working Drawings, as approved by State, except with concurrence of Concessionaire.

G. Completion of Improvements: Upon State approval of the Working Drawings and receipt of all required permits, licenses, and other approvals, Concessionaire shall commence construction to the facility as described herein, and prosecute the same to completion with all due diligence and within **four (4) months**. Such time shall be extended as reasonably necessary in the event of delays caused by fire, earthquakes, wars, strikes, adverse weather, or other calamity beyond Concessionaire's control. Concessionaire shall hold monthly or more frequent status meetings throughout the period of construction, which shall include representatives of the general contractor, appropriate subcontractors, a representative of Concessionaire, and a representative of the State.

Upon completion of construction, Concessionaire shall (1) file a Notice of Completion of Construction with State; (2) provide State with a complete set of "as-built" plans for all improvements in a format acceptable to State; (3) submit evidence that all improvements are clear of any mechanic's liens; (4) have work certified by a licensed architect or engineer to be in compliance with the Working Drawings as approved by State and all applicable building or other laws, codes, or regulations; and (5) submit an account of the cost for all facility improvements, excluding equipment and trade fixtures that are the personal property of Concessionaire.

The cost accounting as required by item (5) above shall include cost statements and substantiating invoices for all project expenses including labor and materials. After such accounting has been examined by State, State in its sole discretion will establish in a reasonable and fair manner the cost of facilities and improvements for the purposes of evaluating Concessionaire's compliance with the facility development expenditure requirements of this contract. In the event such accounting is not filed by Concessionaire at the time specified, State shall estimate the cost of the project and serve notice of same on Concessionaire in the manner provided herein.

When Concessionaire has received written acceptance from the State of the Notice of Completion, subject to other provisions of this contract,

Concessionaire shall have the right to commence concession business operations.

#### 11. **CONTRACT NOTICE**

Any notices required to be given or that may be given by either party to the other shall be deemed to have been given when made in writing and deposited in the United States mail, postage prepaid, and addressed as follows:

Concessionaire at: CT-**ConcessionaireName**  
CT-**ConcessionContactAddress**  
CT-**ConcessionCityState** CT-Concession**Zip**  
CT-**ConcessionairePhone**

State at: Department of Parks and Recreation  
Orange Coast District  
3030 Avenida del Presidente  
San Clemente, CA 92672  
Attn: Kenneth Kramer (949) 366-8500

Copy to: Department of Parks and Recreation  
Concessions, Reservations & Fees Division  
P.O. Box 942896  
Sacramento, California 94296-0001  
916-653-7733

The address to which notices shall or may be mailed as aforesaid by either party shall or may be changed by written notice given by such party to the other, but nothing in this Section shall preclude the giving of any such notice by personal service.

#### 12. **RECORDS AND REPORTS**

Concessionaire shall keep separate true and accurate books and records showing all of Concessionaire's business transactions under this contract in a manner that conforms to industry standards and practices and in a manner acceptable to State. Concessionaire shall keep all records for a period of at least four years.



In accordance with Public Resources Code Section 5080.18(b), copies of all sales and use tax returns submitted by Concessionaire to the California State Board of Equalization, the Employment Development Department, the Franchise Tax Board, or any other governmental agency shall be concurrently submitted to State.

In accordance with Public Resources Code Section 5080.18(c), State shall have the right through its representative and at all reasonable times to conduct such audits as it deems necessary and to examine and copy Concessionaire's books and records including all tax records and returns. Concessionaire hereby agrees to make all such records, books, and tax returns available to State upon State's request therefor. Concessionaire further agrees to allow interviews of any employees who might reasonably have information related to such records.

Concessionaire will submit to State, no later than May 1st of each year during the term of this contract, a verified profit and loss statement for the previous calendar year. Such statement shall be submitted on Form DPR 86, "Concessionaire's Financial Statement", attached hereto as **Exhibit E**, or in a format previously approved by the State, and shall contain an appropriate certification that all gross receipts during the yearly accounting period covered by said statement shall have been duly and properly reported to the State. Within forty-five (45) days of the expiration or termination of this contract, Concessionaire shall submit to the State a profit and loss statement for the period of operation not previously reported prepared in the manner stated above.

Concessionaire shall obtain and install cash registers or other accounting equipment acceptable to the State, through which Concessionaire shall record all gross receipts from the operation of the concession. This equipment shall be non-resettable and shall supply an accurate recording of all sales on tape and produce a receipt for each transaction. All such equipment shall have a customer display that is visible to the public. Concessionaire shall make all cash register tapes available to the State upon State's request. Concessionaire shall provide a cash register receipt to each customer setting forth the full amount of a sale. Concessionaire shall make all accounting records available to the State upon State's request.

**13. GROSS RECEIPTS**

The term "gross receipts", wherever used in this contract, is intended to and shall mean all moneys, property, or any other thing of value received by or owed to Concessionaire and any sub-concessionaire or operator, if other than Concessionaire, through or in connection with the operation of the concession, including any concession related business carried on through the internet or catalog sales, or from any other business carried on or in connection with the Premises, or from any other use of the Premises, and/or of any business of any kind that uses the names licensed by this contract, or that associates with or implies an endorsement by State, all without deduction. The term "gross receipts" shall not include any sales taxes imposed by any governmental entity and collected by Concessionaire.

**14. RATES, CHARGES AND QUALITY OF GOODS AND SERVICES**

Concessionaire shall staff, operate, manage, and provide all goods, services, and facilities offered in a first-class manner and comparable to other high quality concessions providing similar facilities and services. State reserves the right to prohibit or modify the sale or rental of any item, accommodation, or service for public safety and/or to ensure that the public receives, in the State's view, fair pricing, proper service, and appropriate quality. State reserves the right to prohibit the sale or use of non-recyclable containers or plastics.

Any increased rates or charges to park visitors proposed by Concessionaire following contract approval shall be submitted in writing for the State's approval. Rate increases may not be imposed retroactively.

A competent person shall be on the premises at all times while the concession is in operation. If the on-site manager is other than the Concessionaire, State reserves the right to approve such manager.

**15. PERFORMANCE EVALUATIONS AND INSPECTION**

As part of its administration of this contract, State will conduct periodic inspections of concession facilities, equipment, services, and programs and prepare written performance evaluations based upon its observations. A "Concessionaire

Performance Rating” (DPR Form 531) attached hereto as **Exhibit F**, or other similar format(s) as may be adopted by the State will be utilized for evaluation purposes. State further reserves the right of ingress and egress without notice to inspect concession operations for the purposes of evaluating Concessionaire’s performance of the terms and conditions of this contract; to inspect, investigate, and/or survey the Premises; and to do any work thereon of any nature necessary for preservation, maintenance, and operation of the State Park System. Concessionaire agrees to cooperate with State in all respects related to the implementation of State’s Concession Performance Evaluation program and with State’s activities on the Premises. State shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of State’s entry in the Premises as provided herein, except damage resulting from the active negligence or willful misconduct of State or its authorized representatives.

#### **16. HOLD HARMLESS AGREEMENT**

Concessionaire hereby waives all claims and recourse against the State, including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this contract, except claims arising from, and to the extent of, the sole gross negligence or willful misconduct of the State, its officers, agents, or employees. Concessionaire shall protect, indemnify, hold harmless, and defend State, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, attorneys fees, expert costs and fees, or liability costs arising out of the development, construction, operation, or maintenance of the Premises property described herein and compliance with all laws, including but not limited to the Americans With Disabilities Act of 1990 as provided for herein, except for liability arising out of, and to the extent of, the sole gross negligence or willful misconduct of State, its officers, agents, or employees or other wrongful acts for which the State is found liable by a court of competent jurisdiction.

**17. TAXES**

A. By signing this contract, Concessionaire acknowledges that occupancy interest and rights to do business on state property being offered Concessionaire by this contract may create a possessory interest as that term is defined in Revenue and Taxation Code Section 107.6, which possessory interest may subject Concessionaire to liability for the payment of property taxes levied on such possessory interest.

B. Concessionaire agrees to pay all lawful taxes, assessments, or charges that at any time may be levied by the State, County, City, or any tax or assessment levying body upon any interest in or created by this contract, or any possessory right that Concessionaire may have in or to the premises covered hereby, or the improvements thereon by reason of Concessionaire's use or occupancy thereof or otherwise, as well as all taxes, assessments, and charges on goods, merchandise, fixtures, appliances, equipment, and property owned by Concessionaire in or about the Premises.

**18. MODIFICATIONS, ADDITIONS, TITLE TO IMPROVEMENTS**

In the event that Concessionaire desires to make modifications, improvements, or additions to the Premises or any part of the Premises, including changes to structural design, required accessibility barrier removal work, landscape design, or interior or exterior fixtures, design, and/or furnishings, (collectively "Alteration(s)"), the approval in writing of State shall be obtained prior to the commencement of any Alterations. State shall dictate the plan approval process.

Once any Alteration has been approved by State and the work has begun, Concessionaire shall, with reasonable diligence, prosecute to completion all approved Alterations. All work shall be performed in a good and workmanlike manner, shall substantially comply with plans and specifications submitted to State as required herein, and shall comply with all applicable governmental permits, laws, ordinances, and regulations. It shall be the responsibility of Concessionaire, at its own cost and expense, to obtain all licenses, permits, and other approvals necessary for the construction of approved Alterations.

Title to all Alterations and improvements existing or hereafter erected on the Premises, regardless of who constructs such improvements, shall immediately become State's property and, at the end of the Term, shall remain on the Premises without compensation to Concessionaire. Concessionaire agrees never to assail, contest, or resist title to the Alterations and improvements. The foregoing notwithstanding, State may elect, by notice to Concessionaire, that Concessionaire must remove any Alterations that are peculiar to Concessionaire's use of the Premises and are not normally required or used by State and/or future occupants of the Premises. In this event, Concessionaire shall bear the cost of restoring the Premises to its condition prior to the installment of the Alterations.

**19. PERSONAL PROPERTY**

Except to the extent covered by Section 18, "Modifications, Additions, Title to Improvements", title to all personal property provided by Concessionaire shall remain in Concessionaire. Concessionaire shall not attach any personal property to any building without first obtaining State's written approval. Unless approved in writing by State, all property attached to real property will be considered a real property improvement and shall become property of State at the time this contract is terminated.

**20. HOUSEKEEPING, MAINTENANCE, REPAIR AND REMOVAL**

During the term of this contract at Concessionaire's own cost and expense, Concessionaire shall maintain and operate the Premises and areas in, on, or adjacent to a distance of not less than fifty (50) feet, including personal property and equipment, in a clean, safe, wholesome, and sanitary condition free of trash, garbage, or obstructions of any kind. Concessionaire shall remedy without delay any defective, dangerous, or unsanitary conditions. Each concession location is responsible for providing and maintaining their own trash removal containers and service.

A. Housekeeping: Housekeeping activities are defined as all those activities concerned with keeping facilities clean, neat, and orderly, and includes, but is not limited to, mowing, raking, sweeping, vacuuming, mopping, stripping, waxing, dusting, wiping, washing, hosing, and other general care or cleaning of interior

and exterior floors, walls, ceilings, doors, windows, facility fixtures, and all adjacent grounds and walks. The landscape islands at Calafia immediately adjacent to premises shall be maintained and irrigated by Concessionaire as lawn or replaced with drought tolerant native plants as approved by State.

Concession housekeeping shall conform to California State Park standards.

B. Maintenance and Repairs: Concessionaire shall maintain all concession facilities and personal property and equipment on the Premises in good condition and repair at Concessionaire's sole cost and expense at all times during the term of this contract. Such maintenance shall conform to State Park standards. For the purposes of this contract, the term "maintenance" is defined as all repair and preservation work necessary to maintain concession facilities and personal property and equipment in a good state of repair, as well as to preserve them for their intended purpose for an optimum useful life.

Pest inspections shall be performed regularly. Concessionaire will remedy all pest infestations in a timely manner. Concessionaire shall provide to State copies of all pest inspection reports or other professional assessments of the condition of the facilities.

Should Concessionaire fail, neglect, or refuse to undertake and complete any required maintenance, State shall have the right to perform such maintenance or repairs for Concessionaire. In this event, Concessionaire shall promptly reimburse State for the cost thereof provided that State shall first give Concessionaire ten (10) days written notice of its intention to perform such maintenance or repairs. State shall not be obligated to make any repairs to or maintain any improvements on the Premises. Concessionaire hereby expressly waives the right to make repairs at the expense of State and the benefit of the provisions of Sections 1941 and 1942 of the Civil Code of the State of California relating thereto if any there be. State has made no representations respecting the condition of the Premises, except as specifically set forth in this contract.

C. Removal and Restoration. At the expiration or sooner termination of this contract, Concessionaire at its own expense shall remove all personal property brought onto the Premises by Concessionaire. Concessionaire, at

Concessionaire's expense, shall restore and repair the Premises, and any of Concessionaire's improvements or fixtures remaining thereon, to a good, clean, safe, and fit condition, reasonable wear and tear excepted, and shall completely remedy all injuries to the Premises.

**21. UTILITIES AND SERVICES**

Concessionaire shall be responsible for all costs associated with the installation and provision of all utilities necessary to and used in connection with the Premises, including but not limited to sewage disposal. When installing facilities, no trees shall be trimmed or cut without permission of State. Removal and disposal of all rubbish, refuse, and garbage resulting from concession's operations shall be the Concessionaire's responsibility and shall be disposed of outside the park unit and in accordance with applicable laws and local ordinances. All trash containers and/or trash bins shall be adequately screened to the satisfaction of State.

**22. RESOURCE CONSERVATION**

A. Environmental Conservation Program: Concessionaire shall set a positive example in waste management and environmental awareness that shall lead to preservation of the resources of the State. Accordingly, Concessionaire shall prepare and execute a program, subject to the prior written approval of the State, designed to reduce environmental impacts that result from concession operations. This program shall address, but not be limited to: solid waste management, including reduction, reuse and recycling; water and energy conservation, pest management, grease removal and disposal, hazardous materials handling and storage, and air quality. Specifically, the program must include the following:

- 1) Recycling and Beverage Container Programs: The Concessionaire shall implement a source reduction and recycling program designed to minimize concession and patron use of disposable products, per Public Contract Codes Sections 12161 and 12200 et seq. Reusable and recyclable products are preferred over "throwaways". Where disposable

products are needed, products that have the least impact on the environment will be selected. No Styrofoam containers or other non-biodegradable containers are to be used or sold by Concessionaire. The use of "post-consumer" recycled products is encouraged wherever possible.

The Concessionaire shall participate in the California beverage container redemption/recycling program. Products to be recycled include, but are not limited to, paper, newsprint, cardboard, bimetal, plastics, aluminum and glass. At the start of each contract year, Concessionaire and State shall review items sold, and containers or utensils used or dispensed by Concessionaire, and, whenever possible, eliminate the use of non-returnable or non-recyclable containers or plastics.

2) **Water and Energy Conservation:** The Concessionaire shall implement water and energy conservation measures. As new technologies are developed, Concessionaire shall explore the possibility of integrating them into existing operations where there is potential for increased efficiency, reduced water or energy consumption, and/or reduced impacts on the environment.

3) **Erosion Control/Water Quality/Environmental Sensitivity:** The Concessionaire shall comply with all requirements set forth by various oversight agencies that have jurisdiction and oversight authority relating to the Premises and surrounding properties, including, but not limited to, erosion control, water quality and environmental sensitivity standards.

B. **Resource Management and Preservation:** Concessionaire shall comply with State's resource management and preservation mandates in the conduct of all activities that impact cultural, natural, or scenic resources. These mandates include the Public Resources Code Sections 5024 and 5097 et seq. the Department's Resource Management Directives and the Secretary of the Interior's Guidelines for Historic Preservation.

C. **Air and Water Pollution Violation:** Under State laws, Concessionaire shall not be (1) in violation of any order or resolution not subject to review



promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

## **23. HAZARDOUS SUBSTANCES**

A. Use of Premises: On the Premises, Concessionaire shall not:

- 1) Keep, store, or sell any goods, merchandise, or materials that are in any way explosive or hazardous;
- 2) Carry-on any offensive or dangerous trade, business, or occupation;
- 3) Use or operate any machinery or apparatus that shall injure the premises or adjacent buildings in any way; or
- 4) Do anything other than is provided for in this contract.
- 5) Nothing in this Section shall preclude Concessionaire from bringing, keeping, or using on or about said premises such materials, supplies, equipment, and machinery as is appropriate or customary in carrying-on Concessionaire's business.
- 6) Gasoline, oil, and other materials considered under law or otherwise to be hazardous to public health and safety shall be stored, handled, and dispensed as required by present or future regulations and laws.

B. Storage of Hazardous Materials: Concessionaire shall comply with all applicable laws and best practices pertaining to the use, storage, transportation, and disposal of hazardous substances. Concessionaire shall protect, indemnify, defend, and hold harmless the State or any of its affiliates, successors, principals, employees, or agents against any liability, cost, or expense, including attorney's fees and court costs, arising from illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, by Concessionaire. Where Concessionaire is found to be in breach of this provision

due to the issuance of a government order directing Concessionaire to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition directly caused by Concessionaire or any person acting under Concessionaire's direct control or authority, Concessionaire shall be responsible for all cost and expense of complying with such order, including any and all expenses imposed on or incurred by the State in connection with or in response to such government order. Notwithstanding the foregoing, in the event a government order is issued naming Concessionaire, or Concessionaire incurs any liability during or after the term of the contract in connection with contamination that preexisted the Concessionaire's obligations and occupancy under this contract or prior contracts, or that were not directly caused by Concessionaire, the State shall be solely responsible as between Concessionaire and the State for all expenses and efforts in connection therewith, and State shall reimburse Concessionaire for all reasonable expenses actually incurred by Concessionaire therewith.

C. Certification: Upon termination of this contract, when requested by State, Concessionaire shall provide certification prepared by a Certified Industrial Hygienist that there is no hazardous waste contamination and/or damage to the Premises.

D. Pest Control Activities: All pest control activities, chemical and non-chemical, shall be approved by the State prior to action by the Concessionaire. Concessionaire, or the pest control business acting on behalf of Concessionaire, shall submit a DPR 191, "Pest Control Recommendation" (or equivalent) to the State for approval. The State has fourteen (14) days to approve or deny the request. Such approval shall be solely for compliance with State's policies and in no way shall relieve Concessionaire or its contractors, employees, agents or representatives from compliance with all laws and regulations concerning such activities and from carrying out the work in a workmanlike manner.

Concessionaire, or the pest control business acting on behalf of Concessionaire, shall submit a report of completed work for each pest management action to the State no later than seven (7) days after performance

of the work. The report may be submitted on a DPR 191, "Pest Control Recommendation" (or equivalent information).

**24. EQUIPMENT**

Concessionaire, at Concessionaire's own expense, shall completely equip the concession improvements described herein and shall keep the same equipped in a safe and first-class manner throughout the term of this contract.

**25. SIGNS AND ADVERTISING**

No signs, logos, names, placards, or advertising matter shall be inscribed, painted, or affixed upon Premises, circulated, or published, including electronically or on the internet, without prior written consent of the State and only consistent with the purposes of the contract.

**26. PHOTOGRAPHY**

State may grant permits to persons or corporations engaged in the production of still and motion pictures and related activities for the use of the Premises for such purposes when such permission shall not interfere with the primary business of Concessionaire. Such permits shall not be deemed to be a competitive activity with regard to Concessionaire's rights to possession and operation under this contract.

**27. INTELLECTUAL PROPERTY RIGHTS**

Any names, logos, and/or trademarks developed during and/or pursuant to this contract that will in any way associate with, identify, or implicate an affiliation with California State Parks shall be approved by State, but, whether or not so approved, shall be deemed to have been developed pursuant to this contract and licensed hereunder to Concessionaire for the term of this contract only; shall belong to State upon creation; and shall continue in State's exclusive ownership upon termination of this contract, and all goodwill and other rights in said marks shall inure to the benefit of the State as the mark owner. Further, any original works of authorship in which copyright resides, and any other proprietary rights, including without limitation trade

secrets and know-how, which are developed during and/or pursuant to this contract, shall be deemed to be works made for hire in consideration of Concessionaire's rights and benefits hereunder, or alternatively Concessionaire agrees to assign such copyrights to the State, and shall be owned by the State; shall belong to State upon creation; and shall continue in State's exclusive ownership upon termination of this contract. These works shall include, but are not limited to, all drawings, designs, reports, specifications, notes, and other work developed in the performance of this contract. Further, Concessionaire shall deliver to the State upon request the disk or tape that contains the design or other such files containing such information, and shall specify the supplier of the software and hardware necessary to use the files of any work that is performed with the assistance of Computer Aided Design and Drafting Technology. Concessionaire intends and agrees to assign to State all right, title, and interest in and to such materials, as well as all related copyrights and other proprietary rights therein, unless otherwise agreed to in writing.

Concessionaire warrants that it has the full right, power, and authority over and is the sole exclusive owner of all tangible and intangible property deliverable to State in connection with this contract and that title to such materials conveyed to State shall be delivered free and clear of all claims, liens, charges, judgments, settlement, encumbrances, or security interests.

Concessionaire agrees not to incorporate into or make any deliverables dependent upon any original works of authorship or Intellectual Property Rights of third parties without first (i) obtaining State's prior written permission, and (ii) granting to or obtaining for State a nonexclusive, royalty-free, paid-up, irrevocable, perpetual, world-wide license to use, reproduce, sell, modify, publicly and privately perform, publicly and privately display and distribute any such prior works for any purpose whatsoever.

Concessionaire further warrants that all deliverables do not infringe or violate any patent, copyright, trademark, trade secret, or any other intellectual property rights of any person, entity, or organization. Concessionaire agrees to execute any documents reasonably requested by State in connection with securing State's registration of patent and/or copyrights, or any other statutory protection in such work product, including an assignment of copyright, in all deliverables. Concessionaire further agrees to

incorporate these provisions into all of its contracts with architects, engineers, and other consultants or contractors.

Concessionaire, at its sole expense, shall hold harmless, protect, defend, and indemnify State against any infringement action and/or dispute brought by a third party in connection with any deliverable hereunder. Concessionaire shall pay all costs, expenses, losses and damages, judgments and claims including reasonable attorney's fees, expert witness fees and other costs.

## **28. PARTICIPATION IN STATE PARK MARKETING PROGRAMS**

Concessionaire acknowledges that the State has an established advertising and marketing program designed to promote additional revenue for the State and to deliver a consistent and positive image to the public, and Concessionaire agrees to participate in this program in the manner described below without compensation from the State for such cooperation.

A. Concessionaire agrees to honor all statewide graphic standards, licensing, and merchandising agreements entered into with corporate sponsors of the Department of Parks and Recreation.

B. Concessionaire agrees to place on the Premises any advertising that the State approves under this program. Any advertising approved by the State under this program will be placed at State's expense.

Concessionaire agrees to rent or sell, along with all other items of merchandise that are part of the Concessionaire's normal and customary inventory, any item of merchandise that the State approves under this program, provided that Concessionaire is authorized to sell or rent it under the terms of the contract, and the Concessionaire receives reasonable compensation for its sale.

## **29. DEFAULT BY CONCESSIONAIRE**

A. Defaults: The occurrence of any one of the following shall constitute a default and breach of this contract by Concessionaire:

- 1) Failure to Pay Rent: Any failure of Concessionaire to timely pay any rent due or any other monetary sums required to be paid hereunder

where such failure continues for a period of ten (10) consecutive days after such sums are due.

2) Absence from Premises: Any complete absence by Concessionaire or its agents and employees from the Premises for thirty (30) consecutive days or longer. The Premises shall be deemed abandoned after State has followed the procedures set forth in Civil Code Section 1951.3.

3) Nuisance: Should Concessionaire create or allow to be created a nuisance on the Premises, State may declare an immediate event of default and enter upon and take possession and/or demand an assignment of the right to operate the Premises without notice to Concessionaire. Concessionaire shall immediately vacate the Premises and remove all personal property within thirty (30) days after State's declaration of default.

4) Failure to Observe Other Provisions: Any failure by Concessionaire to observe or perform another provision of this contract where such failure continues for twenty (20) consecutive days after written notice thereof by State to Concessionaire; this notice shall be deemed to be the notice required under California Code of Civil Procedure Section 1161. However, if the nature of Concessionaire's default is such that it cannot reasonably be cured within the twenty (20) day period, Concessionaire shall not be deemed to be in default if it is determined at the sole discretion of State that Concessionaire has commenced such cure within the twenty (20) day period and thereafter continues to diligently prosecute such cure to completion to the satisfaction of State.

5) Involuntary Assignments, Bankruptcy: State and Concessionaire agree that neither this contract nor any interest of Concessionaire hereunder in the Premises shall be subject to involuntary assignment or transfer by operation of law in any manner whatsoever, including, without limitation, the following: (a) transfer by testacy or intestacy; (b) assignments or arrangements for the benefit of creditors; (c) levy of a writ

of attachment or execution on this contract; (d) the appointment of a receiver with the authority to take possession of the Premises in any proceeding or action in which Concessionaire is a party; or (e) the filing by or against Concessionaire of a petition to have Concessionaire adjudged a bankrupt, or of a petition for reorganization or arrangement under any law relating to bankruptcy. Any such involuntary assignment or transfer by operation of law shall constitute a default by Concessionaire and State shall have the right to elect to take immediate possession of the Premises, to terminate this contract and/or invoke other appropriate remedies as set forth below, in which case this contract shall not be treated as an asset of Concessionaire.

B. Notices of Default: Notices of default shall specify the alleged default and the applicable contract provision and shall demand that Concessionaire perform the provisions of this contract within the applicable time period or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this contract unless State specifically so states in the notice.

### **30. STATE'S REMEDIES**

In the event of default by Concessionaire, State shall have the following remedies. These remedies are not exclusive; they are cumulative and are in addition to any other right or remedy of State at law or in equity.

A. Collection of Rent: In any case where State has a cause of action for damages, State shall have the privilege of splitting the cause to permit the institution of a separate suit for rent due hereunder, and neither institution of any suit, nor the subsequent entry of judgment shall bar State from bringing another suit for rent; it being the purpose of this provision to provide that the forbearance on the part of State in any suit or entry of judgment for any part of the rent reserved under this contract, to sue for, or to include in, any suit and judgment the rent then due, shall not serve as defense against, nor prejudice a subsequent action for, rent or other obligations due under the contract. The

claims for rent may be regarded by State, if it so elects, as separate claims capable of being assigned separately.

B. Maintain Contract in Effect: The State has the remedy described in California Civil Code 1951.4 (lessor may continue lease in effect after lessee's breach or abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations). The following do not constitute a termination of the Concessionaire's right to possession: (1) Acts of maintenance or preservation or efforts to relet the Premises; (2) The appointment of a receiver upon initiative of the State to protect State's interests under the contract; (3) Withholding consent to a subletting or assignment so long as such consent is not unreasonably withheld.

C. Continued Performance: At State's option, Concessionaire shall continue with its responsibilities under this contract during any dispute.

D. Termination of Concessionaire's Right to Possession: Upon an event of default, State may terminate Concessionaire's right to possession of the Premises at any time by written notice to Concessionaire. In the absence of such written notice from State, no act by State, including, but not limited to, acts of maintenance, efforts to relet and/or assign rights to possession of the Premises, or the appointment of a receiver on State's initiative to protect State's interest under this contract shall constitute an acceptance of Concessionaire's surrender of the Premises, or constitute a termination of this contract or of Concessionaire's right to possession of the Premises. Upon such termination, State has the right to recover from Concessionaire:

- 1) the worth, at the time of the award, of the unpaid rent that had been earned at the time of termination of this contract;
- 2) the worth, at the time of the award, of the amount by which the unpaid rent that would have been earned after the date of termination of this contract until the time of the award exceeds the amount of loss of rent that Concessionaire proves could have reasonably been avoided;
- 3) the worth, at the time of the award, of the amount by which the unpaid rent for the balance of the term after the time of the award



exceeds the amount of the loss of rent that Concessionaire proves could have been reasonably avoided; and

4) any other amount necessary to compensate State for all the detriment proximately caused by Concessionaire's failure to perform its obligations under this contract, which, without limiting the generality of the foregoing, includes any cost and expenses incurred by the State in recovering possession of the Premises, in maintaining or preserving the Premises after such default, in preparing the Premises for a new concessionaire, in making any repairs or alterations to the Premises necessary for a new concessionaire, in making any repairs or alterations to the Premises, and costs of clearing State's title of any interest of Concessionaire, commissions, attorneys' fees, architects' fees, and any other costs necessary or appropriate to make the Premises operational by a new concessionaire.

"The worth, at the time of the award," as used herein above shall be computed by allowing interest at the lesser of a rate of ten percent (10%) per annum or the maximum legal rate.

E. Assignment at State's Direction: In the event of a default by Concessionaire, when cure is not received and acknowledged by State after having provided notice of the breach as provided herein above, Concessionaire shall, in addition to the damages provided for herein, be obligated to assign all rights to occupy, possess, and operate on and in the Premises to State's designee within thirty (30) days of receipt of written demand by State. Concessionaire shall further remove itself and its personal property from the Premises within the same time frame. Concessionaire agrees to execute all documents necessary to effectuate and implement this provision. Upon such assignment, all rights of Concessionaire under the contract shall transfer to the assignee.

Any designated assignee, as provided for herein, shall take and operate the concession under the same terms and conditions as those set forth herein, except for requirements that have already been performed and are no longer

applicable. However, Concessionaire shall not be relieved of obligations incurred. An assignment of the contract pursuant to the terms hereof shall not cause the contract to terminate and shall not work a merger.

F. Receiver: If Concessionaire is in default of this contract, State shall have the right to have a receiver appointed to collect rent and conduct Concessionaire's business or to avail itself of any other pre-judgment remedy. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by State to terminate this contract.

G. Right to Cure Concessionaire's Default: At any time after Concessionaire commits a default, State can cure the default at Concessionaire's cost. If State, at any time by reason of Concessionaire's default, pays any sum or does any act that requires the payment of any sum, the sum paid by State shall be due immediately from Concessionaire to State, and if paid at a later date shall bear interest at the rate of ten percent (10%) per annum from the date the sum is paid by State until State is reimbursed by Concessionaire. Any such sum shall be due as additional rent.

H. Personal Property of Concessionaire: In the event any personal property or trade fixtures of Concessionaire remain at the Premises after State has regained possession or after an assignment is accomplished, that property or those fixtures shall be dealt with in accordance with the provisions for Surrender of the Premises provided below.

1) State's Obligations After Default: State shall be under no obligation to observe or perform any covenant of this contract on its part to be observed or performed that accrues after the date of any default by Concessionaire. Such nonperformance by State shall not constitute a termination of Concessionaire's right to possession nor a constructive eviction.

2) No Right of Redemption: Concessionaire hereby waives its rights under California Code of Civil Procedure Sections 1174 and 1179 or any present or future law that allows Concessionaire any right of redemption

or relief from forfeiture in the event State takes possession of the Premises by reason of any default by Concessionaire.

3) Other Relief: All monetary obligations of the Concessionaire of any kind shall be considered rent. State shall have such rights and remedies for failure to pay such monetary obligations as State would have if Concessionaire failed to pay rent due. The remedies provided in this contract are in addition to any other remedies available to State at law, in equity, by statute, or otherwise.

4) No Buy-out: In accordance with Public Resources Code Section 5080.18 (h), where the contract has been terminated due to a breach on the part of the Concessionaire under any terms of this contract the State shall not be obligated to purchase any improvements made by Concessionaire or to pay the Concessionaire for said improvements before or after taking possession of the Premises.

### **31. DEFAULT BY STATE**

State shall not be in default of the performance of any obligation required of it under this contract unless and until it has failed to perform such obligation for more than thirty (30) days after written notice by Concessionaire to State specifying the alleged default and the applicable contract provision giving rise to the obligation. However, if the nature of State's obligation is such that more than thirty (30) days is required for its performance, then State shall not be deemed in default if it shall commence performance within such 30-day period and thereafter diligently prosecute the same to completion.

### **32. STATE BUY-OUT PROVISIONS**

A. Notwithstanding any other provision in this contract and in addition to any other remedy available to State, upon twelve (12) months written notice, State shall have the option to terminate the contract and to pay Concessionaire the then depreciated cost of the facilities placed, created, or developed by Concessionaire on the Premises.

B. It is expressly understood that this Section does not apply to the situation where the State may terminate this contract for any breach on the part of the Concessionaire under Section 29, "Default By Concessionaire", or where the contract is terminated at Concessionaire's request. Where there has been a breach on the part of the Concessionaire, under any terms of this contract, the State shall not be obligated to pay the Concessionaire before or after taking possession of the Premises.

In the event of breach, bankruptcy, insolvency, abandonment, or the contract is terminated at Concessionaire's request, the buy-out provisions contained herein are not to be considered as an obligation of the State.

C. For the purposes of this Section, such facilities shall be deemed to be the structures Concessionaire is expressly required to construct, create, or develop under Section 10, "Construction and Completion of Improvements", or later adds, exclusive of Concessionaire's personal property. The cost of such facilities for the purposes of this Section shall be those values established under Section 10, (g), "Construction and Completion of Improvements", above.

D. The amount to be paid as the then depreciated cost of the facilities in the event of termination under this Section shall be based on a six percent (6%), ten (10) year capital recovery schedule, which shall provide thirteen thousand five hundred eighty seven Dollars (\$13,587) for each one hundred thousand Dollars (\$100,000) of beginning cost, multiplied by the remaining years of the contract.

E. In the event there is an assignment of this contract for security and as consented to by State, then any payments made pursuant to this Section shall be used to satisfy such assignee to the extent of assignee's interest.

F. This Section shall only be operative when funds required by State for such buy-out are lawfully available to State, either through appropriation by the Legislature and through the normal budgeting processes of the State or otherwise.

**33. SURRENDER OF THE PREMISES; HOLDING OVER**

A. Surrender: On expiration or within thirty (30) days after earlier termination of the contract, Concessionaire shall surrender the Premises to State with all fixtures, improvements, and Alterations in good condition, except for fixtures, improvements, and Alterations that Concessionaire is obligated to remove. Concessionaire shall remove all of its personal property and shall perform all restoration required by the terms of this contract within the above stated time unless otherwise agreed to in writing.

1) Personal Property: All of Concessionaire's personal property remaining on the Premises beyond such time specified in this Section shall be dealt with in accordance with California Code of Civil Procedure Section 1174 and California Civil Code Sections 1980, or such other laws as may be enacted regarding the disposition of Concessionaires' property remaining at the Premises. Concessionaire waives all claims against State for any damage to Concessionaire resulting from State's retention or disposition of Concessionaire's personal property. Concessionaire shall be liable to State for State's costs in storing, removing, and disposing of Concessionaire's personal property or trade fixtures.

2) Failure to Surrender. If Concessionaire fails to surrender the Premises to State on the expiration, assignment, or within thirty (30) days after earlier termination of the term as required by this Section, Concessionaire shall hold State harmless for all damages resulting from Concessionaire's failure to surrender the Premises.

B. Holding Over: After the expiration or earlier termination of the term and if Concessionaire remains in possession of the Premises with State's express consent, such possession by Concessionaire shall be deemed to be a temporary tenancy terminable on thirty (30) days written notice given at any time by either party. During such temporary tenancy, the Minimum Rent shall be increased by 10% over the Minimum Rent of the last year prior to the expiration or earlier termination of the contract and in addition to any changes as the result of Consumer Price Index adjustments required by this contract in accordance with

Section 4, "Rent", unless otherwise agreed to in writing by State. Concessionaire shall pay such rent and all other sums required to be paid hereunder monthly on or before the fifteenth day of each month. All other provisions of this contract except those pertaining to the term shall apply to the month-to-month tenancy.

**34. NO RECORDATION; QUITCLAIM**

- A. No Recordation: This contract shall not be recorded.
- B. Quitclaim: Concessionaire shall execute and deliver to State on the expiration or termination of this contract immediately on State's request, a quitclaim deed to the Premises and the rights arising hereunder, in recordable form or such other document as may be necessary, to remove any claim of interest of Concessionaire in and to all property belonging to the State. Should Concessionaire fail or refuse to deliver to State a quitclaim deed or other documents as aforesaid, a written notice by State reciting the failure of the Concessionaire to execute and deliver said quitclaim deed as herein provided, shall after ten (10) days from the date of recordation of said notice be conclusive evidence against the Concessionaire and all persons claiming under Concessionaire of the termination of this contract.

**35. ATTORNEYS FEES**

Concessionaire shall reimburse the State on demand for all reasonable attorney fees (including attorneys fees incurred in any bankruptcy or administrative proceeding or in any appeal) and expenses incurred by State as a result of a breach or default under this contract. If Concessionaire becomes the prevailing party in any legal action brought by State, Concessionaire shall be entitled to recover reasonable attorney fees and expenses incurred by Concessionaire and need not reimburse the State for any attorney fees and expenses incurred by the State.

**36. EXPATRIATE CORPORATIONS**

Concessionaire hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1 and is eligible to contract with the State.

**37. COMPLIANCE WITH LAWS, RULES, REGULATIONS AND POLICIES**

Concessionaire shall comply with all applicable laws, rules, regulations, and orders existing during the term of this contract, including obtaining and maintaining all necessary permits and licenses. Concessionaire acknowledges and warrants that it is or will make itself through its responsible concession managers, knowledgeable of all pertinent laws, rules, ordinances, regulations, or other requirements having the force of law affecting the operation of the concession facilities, including but not limited to laws affecting health and safety, hazardous materials, pest control activities, historic preservation, environmental impacts, and State building codes and regulations.

**38. NONDISCRIMINATION**

During the performance of this contract, Concessionaire and its employees shall not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, or any member of the public because of sex, sexual orientation, race, color, religious creed, marital status, need for family and medical care leave, ancestry, national origin, medical condition (cancer/genetic characteristics), age (40 and above), disability (mental and physical) including HIV and AIDS, need for pregnancy disability leave, or need for reasonable accommodation. Concessionaire shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

For contracts over \$100,000 executed or amended after January 1, 2007, the Concessionaire certifies compliance with Public Contract Code Section 10295.3 concerning domestic partners.

Further, as part of compliance with the foregoing, Concessionaire and Concessionaire's employees shall not discriminate by refusing to furnish any person

any accommodation, facility, service, or privilege offered to or enjoyed by the general public. Nor shall Concessionaire or Concessionaire's employees publicize the accommodation, facilities, services, or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any such person.

Concessionaire shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a)-(f), are incorporated into this contract by reference and made a part hereof as if set forth in full (California Code of Regulations, title 2, Section 7285.0 et seq.). Concessionaire shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Concessionaire shall include the non-discrimination and compliance provisions of this clause in all contracts to perform work under and/or in connection with this contract.

In the event of violation of this Section, the State will have the right to terminate this contract, and any loss of revenue sustained by the State by reason thereof shall be borne and paid for by the Concessionaire.

### **39. DISABILITIES ACCESS LAWS**

Without limiting Concessionaire's responsibility under this contract for compliance with all laws, with regard to all operations and activities that are the responsibility of Concessionaire under this contract, Concessionaire shall be solely responsible for complying with the requirements of the Americans With Disabilities Act of 1990 ("ADA") [Public Law 101-336, commencing at Section 12101 of Title 42, United States Code (and including Titles I, II, and III of that law)], the Rehabilitation Act of 1973, and all related regulations, guidelines, and amendments to both laws.

With regard to facilities for which Concessionaire is responsible for operation, maintenance, construction, restoration, or renovation under this contract, Concessionaire also shall be responsible for compliance with Government Code



Section 4450, et seq., Access to Public Buildings by Physically Handicapped Persons, and Government Code Section 7250, et seq., Facilities for Handicapped Persons, and any other applicable laws. The required facility modifications to meet statutory requirements described in Exhibit I must be completed by Concessionaire within one (1) year of contract execution. Approval from State is required prior to implementation of any plans to comply with accessibility requirements.

**40. DRUG-FREE WORKPLACE**

Concessionaire agrees to comply with Government Code Section 8355 in matters relating to the provision of a drug-free workplace. This compliance is evidenced by the executed Standard Form 21 entitled "Drug-Free Workplace Certification", **Exhibit G**, attached hereto and made a part of the contract.

**41. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

The Concessionaire, by signing this contract, does hereby swear, under penalty of perjury, that no more than one final, unappealable finding of contempt of court by a Federal Court has been issued against Concessionaire within the two-year period immediately preceding the date of this contract because of Concessionaire's failure to comply with a Federal Court order that Concessionaire shall comply with an order of the National Labor Relations Board.

**42. CHILD SUPPORT COMPLIANCE ACT**

In the event the annual gross income generated as a result of this contract shall exceed One Hundred Thousand Dollars (\$100,000.00), Concessionaire acknowledges that:

- A. The Concessionaire recognizes the importance of child and family support relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as obligations and shall comply with all applicable state and federal laws provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and

B. The Concessionaire to the best of its knowledge is complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**43. CONFLICT OF INTEREST**

Concessionaire warrants and covenants that no official, employee in the state civil service, other appointed state official, or any person associated with same by blood, adoption, marriage, cohabitation, and/or business relationship: (a) has been employed or retained to solicit or aid in the procuring of this contract; (b) will be employed in the performance of this contract without the immediate divulgence of such fact to State. In the event State determines that the employment of any such official, employee, associated person, or business entity is not compatible, Concessionaire shall terminate such employment immediately. For breaches or violation of this Section, State shall have the right both to annul this contract without liability and, in its discretion, recover from the Concessionaire the full amount of any compensation paid to such official, employee, or business entity.

**44. WAIVER OF CLAIMS**

The Concessionaire hereby waives any claim against the State of California, its officers, agents, or employees for damage or loss caused by any suit or proceeding directly or indirectly attacking the validity of this contract or any part thereof, or by any judgment or award in any suit or proceeding declaring this contract null, void, or voidable, or delaying the same or any part thereof from being carried out.

**45. WAIVER OF CONTRACT TERMS**

Unless otherwise provided by this contract, no waiver by either party at any time of any of the terms, conditions, or covenants of this contract shall be deemed as a waiver at any time thereafter of the same or of any other term, condition, or covenant herein contained, nor of the strict and prompt performance thereof. No delay, failure, or omission of the State to re-enter the Premises or to exercise any right, power, privilege,

or option arising from any breach, nor any subsequent acceptance of rent then or thereafter accrued shall impair any such right, power, privilege, or option or be construed as a waiver of such breach or a relinquishment of any right or acquiescence therein. No notice to the Concessionaire shall be required to restore or revive time as of the essence after the waiver by the State of any breach. No option, right, power, remedy, or privilege of the State shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options, and remedies given to the State by this contract shall be deemed cumulative.

**46. INTERPRETATION OF CONTRACT**

This contract is made under and is subject to the laws of the State of California in all respects as to interpretation, construction, operation, effect, and performance.

**47. DURATION OF PUBLIC FACILITIES**

By entering into this contract, State makes no stipulation as to the type, size, location, or duration of public facilities to be maintained at this unit, or the continuation of State ownership thereof, nor does the State guarantee the accuracy of any financial or other factual representation that may be made regarding this concession.

**48. TIME OF ESSENCE**

Time shall be of the essence in the performance of this contract.

**49. EMINENT DOMAIN**

If, during the term of this contract, any property described herein or hereinafter added hereto is taken in eminent domain, the entire award shall be paid to State.

**50. TEMPORARY TENANCY**

This tenancy is of a temporary nature and the parties to this contract agree that no Relocation Payment or Relocation Advisory Assistance will be sought or provided in any form as a consequence of this tenancy.

**51. SECTION TITLES**

The Section titles in this contract are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or intent of this contract, or in any way affect this contract.

**52. CONTRACT IN COUNTERPARTS**

This contract may be executed in counterparts, each of which shall be deemed an original.

**53. INDEPENDENT CONTRACTOR**

In the performance of this contract, Concessionaire and the agents and employees of Concessionaire shall act in an independent capacity and not as officers or employees or agents of the State.

**54. ASSIGNMENTS AND SUBCONCESSIONS**

No transfer, assignment, or corporate sale or merger by the Concessionaire that affects this contract or any part thereof or interest therein directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer, assignment, or corporate merger or sale is first consented to in writing by State. Before State considers such assignment, evidence must be given to State that the proposed assignee qualifies as a "best responsible bidder" under the terms of Section 5080.05 of the Public Resources Code or "best responsible person or entity submitting a proposal" under the terms of Section 5080.23 of the Public Resources Code and the Bid Prospectus or Request for Proposals under which this contract was awarded and executed. To be effective, any such assignment must comply with applicable law including, without limitation on generality, Public Resources Code Sections 5080.20 and 5080.23.

**55. MODIFICATION OF CONTRACT**

This concession contract contains and embraces the entire agreement between the parties hereto and neither it, nor any part of it, may be changed, altered, modified, limited, or extended orally or by any agreement between the parties unless such

agreement be expressed in writing, signed, and acknowledged by the State and the Concessionaire or their successors in interest.

An amendment is required to change the Concessionaire's name as listed in this contract upon receipt of legal documentation to support such change.

Notwithstanding any of the provisions of this contract, the parties may hereafter, by mutual consent expressed in writing, agree to modifications thereof, additions thereto, or terminations thereof, which are not forbidden by law. Such written modifications or additions to this contract shall not be effective until signed and acknowledged by the State and Concessionaire and approved in writing by the Department of General Services and the Attorney General of the State of California. The State shall have the right to grant reasonable extensions of time to Concessionaire for any purpose or for the performance of any obligation of Concessionaire hereunder.

**56. UNENFORCEABLE PROVISION**

In the event that any provision of this contract is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this contract have force and effect and shall not be effected thereby.

**57. APPROVAL OF CONTRACT**

This contract, amendments, modifications, or termination thereof shall not be effective until approved by Department of General Services and the Attorney General of the State of California.

**58. STATE'S DISTRICT SUPERINTENDENT**

For the purposes of this contract, the "District Superintendent" is the State representative responsible for the Premises. The District Superintendent is charged with the day-to-day administration of this contract and is the Concessionaire's initial contact with the State for information, contract performance, and other issues as might arise. The District Superintendent may delegate these responsibilities to a Sector or Park Superintendent or other individual.

**IN WITNESS WHEREOF**, the parties hereto warrant that they respectively have the requisite authority to enter this contract, binding the named parties for which they sign, and have executed this concession contract at the respective times set forth below.

**CONCESSIONAIRE:****STATE OF CALIFORNIA  
DEPARTMENT OF PARKS & RECREATION**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED:****APPROVED:****ATTORNEY GENERAL:****DEPARTMENT OF GENERAL SERVICES:**

Approved as to legal sufficiency  
in accordance with the requirements  
of Sections 5080.02-5080.21 of the  
Public Resources Code.

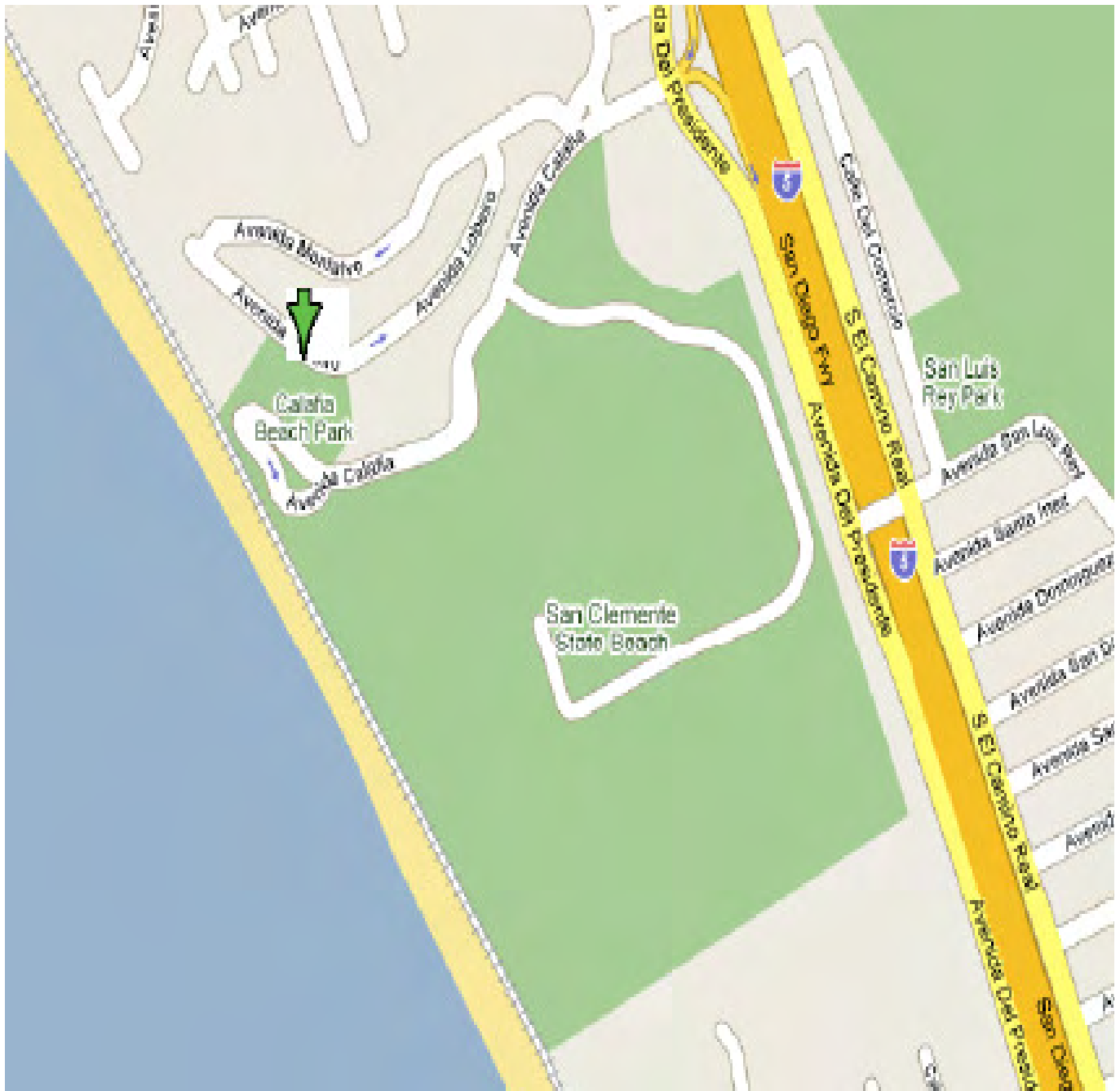
**EDMUND G. BROWN JR., Attorney General  
of the State of California**

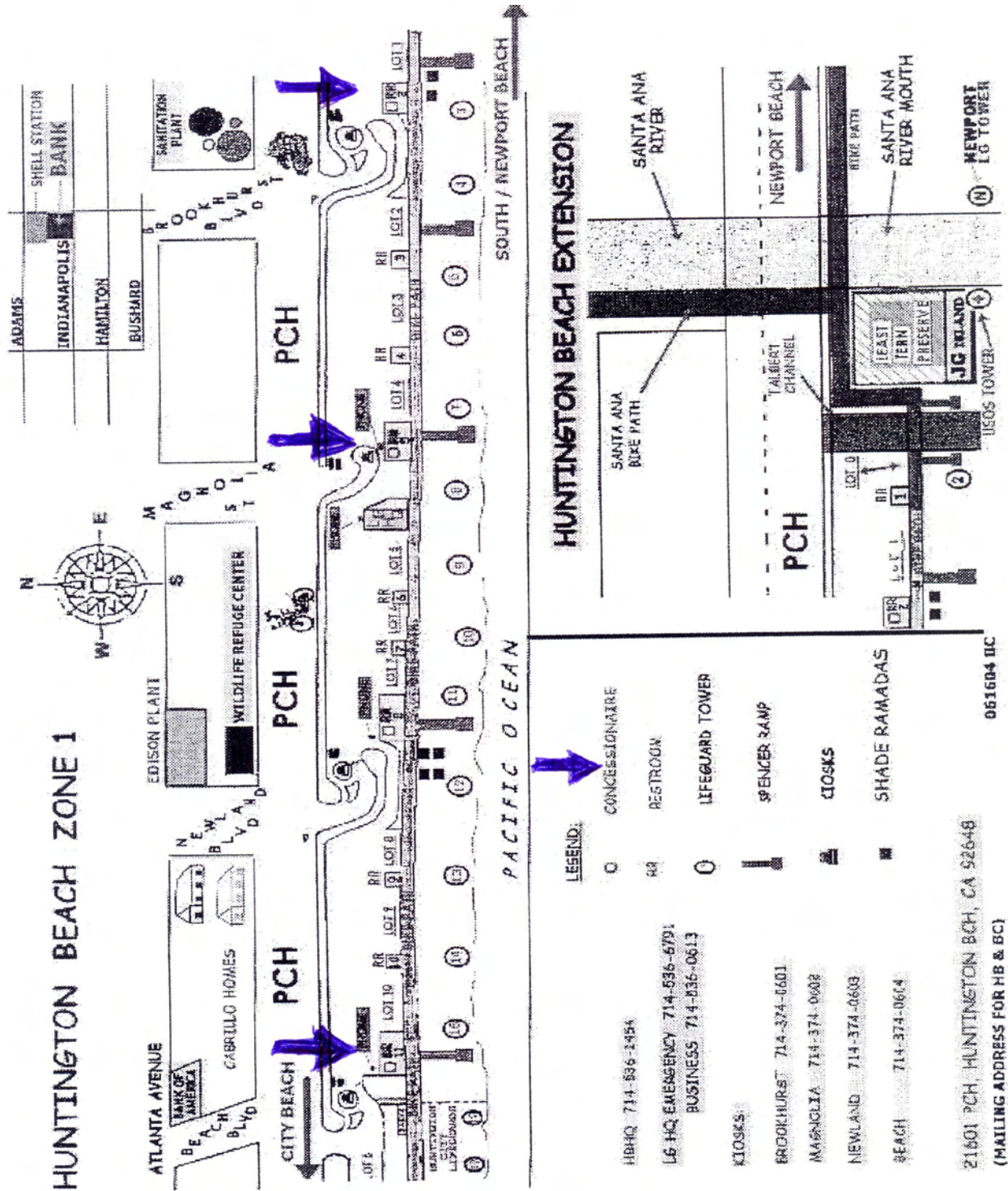
By: \_\_\_\_\_  
Deputy Attorney General

Dated: \_\_\_\_\_

**EXHIBIT A – THE PREMISES (Calafia)**

Calafia portion of San Clemente State Beach



**EXHIBIT A – THE PREMISES (Huntington)**



**EXHIBIT B - CONSUMER PRICE INDEX ADJUSTMENT FORMULA**

Consumer Price Index (CPI) adjustments shall be based on changes in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for "All Urban Consumers, Los Angeles All Items, (1982-84=100)." Calculations shall employ the following formula:

"Base Index" = CPI Index published for the month preceding the commencement date of this contract.

"Base Rent" = Minimum rent during the first contract year.

"Year End Index" = CPI Index for the month preceding the start of the subject contract year.

**Step #1:** 
$$\frac{\text{"Year End Index"} - \text{"Base Index"}}{\text{"Base Index"}} = \% \text{ Change}$$

**Step #2:** 
$$\% \text{ Change} \times \text{Base Rent} = \text{Adjustment}$$

**Step #3:** 
$$\text{Base Rent} + \text{Adjustment} = \text{New Rent}$$

# EXHIBIT C -DPR 54, CONCESSIONAIRE'S MONTHLY REPORT OF OPERATION

State of California - The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

## CONCESSIONAIRE'S MONTHLY REPORT OF OPERATION

FOR THE MONTH OF \_\_\_\_\_, YEAR \_\_\_\_\_

(Instructions on reverse.)

| FOR DEPARTMENT COMPLETION |               |
|---------------------------|---------------|
| DISTRICT NO.              | PARK UNIT NO. |
| ROC DOCUMENT NO.          |               |

| NAME OF CONCESSION   |                |                                       |   |   |                     |
|--|----------------|---------------------------------------|---|---|---------------------|
| ADDRESS  |                |                                       | CITY/STATE/ZIP CODE   |   |                     |
| DISTRICT   |                |                                       | PARK UNIT   |   |                     |
| TYPE OF RECEIPT  | GROSS RECEIPTS | NUMBER OF UNITS<br>(WHERE APPLICABLE) | CUMULATIVE GROSS TO DATE<br>(CONTRACT YEAR)   | PERCENT RATE OR AMOUNT PER UNIT DUE STATE | AMOUNT DUE TO STATE |
| FOOD & NONALCOHOLIC BEVERAGES  |                |                                       |   |   |                     |
| ALCOHOLIC BEVERAGES  |                |                                       |   |   |                     |
| MERCHANDISE  |                |                                       |   |   |                     |
| EQUIPMENT RENTALS  |                |                                       |   |   |                     |
| PAY SHOWERS  |                |                                       |   |   |                     |
| VENDING MACHINES<br>(SEE REVERSE)  |                |                                       |   |   |                     |
|  |                |                                       |   |   |                     |
|  |                |                                       |   |   |                     |
|  |                |                                       |   |   |                     |
|  |                |                                       |   |   |                     |
| <b>SUBTOTALS</b>   |                |                                       |   |   |                     |
| <b>ADJUSTMENTS</b><br>(EXPLAIN REASON ON REVERSE)  |                |                                       |   |   |                     |
| <b>***TOTAL DUE***</b><br>(EXPLAIN REASON ON REVERSE)  |                |                                       |   |   |                     |
| <b>MAINTENANCE FEES</b><br>(COMPLETE THIS SECTION IF APPLICABLE)   |                |                                       |   |   |                     |
| THIS MONTH'S MAINTENANCE FEE ALLOCATION<br>_____ % x Monthly Gross Revenue = \$  |                |                                       | CUMULATIVE MAINTENANCE FEE ALLOCATION YEAR TO DATE<br>_____ % x Cumulative Gross Revenue = \$ |   |                     |
| AMOUNT SPENT ON ELIGIBLE MAINTENANCE THIS MONTH<br>\$  |                |                                       | CUMULATIVE AMOUNT EXPENDED ON ELIGIBLE MAINTENANCE YEAR TO DATE<br>\$                         |   |                     |
| <b>SEASONAL CONCESSIONS</b><br>(COMPLETE THIS SECTION IF APPLICABLE)   |                | EXACT DATE YOU CEASED OPERATIONS      |   | DATE YOU EXPECT TO RESUME OPERATIONS      |                     |
| <b>DECLARATION</b>   |                |                                       |   |   |                     |
| I declare under penalty of perjury that the information on this form is accurate and complete to the best of my knowledge. |                |                                       |   |   |                     |
| CONCESSIONAIRE'S SIGNATURE   |                | PRINTED NAME                          |   | DATE                                      |                     |
| TITLE/POSITION   |                |                                       |   | PHONE NO.                                 |                     |

## EXHIBIT C – *continued*

### DPR 54 COMPLETION INSTRUCTIONS

1. Provide the month and year of operation for which this report is being prepared.
2. Provide full name of the concession and the name and address of the concessionaire, including city, state and zip code.
3. Include all revenue for the month for each appropriate category. For "Vending Machine" revenue, please include the following sources:
  - Ice machines
  - Newspaper vending machines
  - Map and brochure vending machines
  - Grab boxes
  - Firewood dispensers
  - Air compressors
  - Washing machines and dryersDo not include the following sources as "Vending Machine" revenue:
  - Park UR Self machines
  - Pay showers
  - Iron rangers
4. Types of revenue that might be recorded on a "per unit" basis include:
  - Petroleum products (per gallon)
  - Group tours (per adult or children's ticket)
5. Complete the "Maintenance Fees" and "Seasonal Concessions" sections of the form if your concession contract requires a maintenance fee allocation and/or if your concession operates on a seasonal basis.
6. Sign and date the form and provide the preparer's title and telephone number.

COMMENTS/EXPLANATIONS:

## **EXHIBIT D –WAIVER OF LIABILITY AND RELEASE**

### **Waiver of Liability and Release, Express Assumption of Risk and Indemnity Agreement**

I understand and acknowledge that there are risks of personal injury, death, and property damage while participating in the activities that are the subject of this rental agreement. The risks are inherent in these concession activities; still other risks may arise from conditions, situations, or activities of which I am presently unaware. My participation is voluntary and based on my independent assessment of the risks, without reliance on representations or advice by employees or representatives of the Concessionaire, the State of California, or any other person.

*In consideration of being granted this rental agreement and the use of concession equipment,*

**I HEREBY RELEASE, WAIVE, AND RELINQUISH ALL CLAIMS AND LEGAL ACTIONS FOR PERSONAL INJURY, WRONGFUL DEATH, OR PROPERTY DAMAGE AGAINST CONCESSIONAIRE, AND AGAINST THE STATE OF CALIFORNIA, DEPARTMENT OF PARKS AND RECREATION (STATE), ARISING AS A RESULT OF MY PARTICIPATION IN THESE CONCESSION ACTIVITIES, OR ANY ACTIVITIES INCIDENTAL THERETO INCLUDING RESCUE ACTIVITIES; THIS RELEASE APPLIES EVEN IF CONCESSIONAIRE AND/OR STATE IS NEGLIGENT OR OTHERWISE AT FAULT. I ALSO AGREE TO PROTECT, HOLD HARMLESS, DEFEND AND INDEMNIFY CONCESSIONAIRE AND STATE FROM ALL CLAIMS AND LEGAL ACTIONS FOR PERSONAL INJURY, DEATH OR PROPERTY DAMAGE ARISING FROM MY CONDUCT; THESE INDEMNITIES APPLY EVEN IF CONCESSIONAIRE AND/OR STATE IS NEGLIGENT OR OTHERWISE AT FAULT.**

I understand the effect of my signing this document is that I (1) acknowledge and assume all risk of injury, death, or property damage I might suffer while participating in these concession activities, even if it occurs as a result of the negligence of Concessionaire and/or State or defects in equipment, (2) absolve and release Concessionaire and State from the consequences of their negligence, including without limit, rescue efforts, and defects in equipment, and (3) will protect, hold harmless, indemnify and defend Concessionaire and State against any legal actions or other claims for damages arising from my actions. **I UNDERSTAND THAT I AM FORFEITING IMPORTANT LEGAL RIGHTS AND INCURRING IMPORTANT LEGAL RESPONSIBILITIES.**

I understand that certain minimum skills, capabilities, physical and mental health, and fitness are required in order to participate in dangerous activities such as these concession activities; I warrant that I possess these. I understand and agree that should emergency rescue services or evacuation become necessary, the expenses are my sole responsibility and not those of Concessionaire and/or State or any other public or private entity.

I warrant that I am executing this agreement voluntarily and that neither Concessionaire nor the State has made any representations to induce or coerce me to sign this document. I agree that the terms of this document bind me, my heirs, assigns, executors, and administrators, and expressly and specifically protect Concessionaire and State including, as applicable, their agents, employees, officers, directors, and shareholders.

Printed Name & Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of parent or guardian for participant under age 18: \_\_\_\_\_

Name & Telephone of person to contact for emergencies: \_\_\_\_\_

## EXHIBIT E - DPR 86, CONCESSIONAIRE FINANCIAL STATEMENT

State of California - The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

### CONCESSIONAIRE FINANCIAL STATEMENT

|                     |   |
|---------------------|---|
| CONCESSIONAIRE NAME | CONCESSION NAME                           |
| PARK UNIT NAME      | REPORTING PERIOD<br>From: _____ To: _____ |

#### A. CASH FLOW STATEMENT

##### **GROSS SALES/RECEIPTS**

|                                    |                     |                 |
|------------------------------------|---------------------|-----------------|
|                                    |                     | \$ _____        |
| Less Returned Sales and Allowances | \$ _____            |                 |
| Less Sales Taxes                   | _____               |                 |
| Net Sales for Period               |                     | \$ _____        |
| Cost of Goods Sold:                |                     |                 |
| Inventory at Beginning of Period   | \$ _____            |                 |
| Add Purchases During Period        | _____               |                 |
| Merchandise Available for Sale     | _____               |                 |
| Less Inventory at Close of Period  | _____               |                 |
| Less Cost of Goods Sold            |                     | \$ _____        |
|                                    | <b>GROSS PROFIT</b> | <b>\$ _____</b> |

##### **LESS EXPENSES**

|  |                                   |                 |
|--|-----------------------------------|-----------------|
| Salaries & Wages ( <i>do not include Concessionaire salaries</i> ) | \$ _____                          |                 |
| Rent to State  | _____                             |                 |
| Insurance  | _____                             |                 |
| Materials & Supplies   | _____                             |                 |
| Maintenance & Repairs  | _____                             |                 |
| Utilities ( <i>including telephone</i> )                           | _____                             |                 |
| Advertising  | _____                             |                 |
| Taxes & Licenses ( <i>other than income &amp; sales</i> )          | _____                             |                 |
| Legal & Accounting   | _____                             |                 |
| Travel & Transportation  | _____                             |                 |
| Interest   | _____                             |                 |
| Security   | _____                             |                 |
| Administrative Overhead  | _____                             |                 |
| Depreciation ( <i>equipment</i> )                                  | _____                             |                 |
| Amortization ( <i>improvements</i> )                               | _____                             |                 |
| Other: _____   | _____                             |                 |
| Other: _____   | _____                             |                 |
| Other: _____   | _____                             |                 |
| Other: _____   | _____                             |                 |
|  | <b>TOTAL EXPENSES</b>             | <b>\$ _____</b> |
|  | <b>NET PROFIT FROM OPERATIONS</b> | <b>\$ _____</b> |
|  | ( <i>before income taxes</i> )    |                 |

# CONCESSIONAIRE FINANCIAL STATEMENT

Page B \_\_\_\_\_ of \_\_\_\_\_

|                     |   |
|---------------------|---|
| CONCESSIONAIRE NAME | CONCESSION NAME                           |
| PARK UNIT NAME      | REPORTING PERIOD<br>From: _____ To: _____ |

## B. SCHEDULE OF DEPRECIATION

*Columns 5, 8, and 9 must add to the total shown in Column 4. If you need more space to list all equipment, use additional pages and number B-2, B-3, etc. Use reverse side for remarks.*

| DESCRIPTION OF EQUIPMENT<br>(1) | DATE<br>ACQUIRED<br>(2) | CONDITION (X)<br>(3) |      | ACQUISITION<br>COST<br>(4) | PRIOR YEARS'<br>DEPRECIATION<br>(5) | RATE (%)<br>(6) | LIFE YEARS<br>(7) | DEPRECIATION<br>THIS PERIOD<br>(8) | BALANCE TO BE<br>DEPRECIATED<br>(9) |
|---------------------------------|-------------------------|----------------------|------|----------------------------|-------------------------------------|-----------------|-------------------|------------------------------------|-------------------------------------|
|                                 |                         | New                  | Used |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
|                                 |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |
| TOTALS                          |                         |                      |      |                            |                                     |                 |                   |                                    |                                     |

## CONCESSIONAIRE FINANCIAL STATEMENT

|                     |   |
|---------------------|---|
| CONCESSIONAIRE NAME | CONCESSION NAME                           |
| PARK UNIT NAME      | REPORTING PERIOD<br>From: _____ To: _____ |

### C. BALANCE SHEET

#### ASSETS

##### **CURRENT ASSETS**

|                                     |          |
|-------------------------------------|----------|
| Cash                                | \$ _____ |
| Accounts Receivable                 | _____    |
| Merchandise Inventory               | _____    |
| Notes Receivable (Less than 1 year) | _____    |

**TOTAL CURRENT ASSETS** \$ \_\_\_\_\_

##### **NONCURRENT ASSETS**

|                             |          |
|-----------------------------|----------|
| Equipment/Property          | \$ _____ |
| Less Depreciation Reserve   | _____    |
| Net Equipment/Property Cost | _____    |
| Prepaid Expenses            | _____    |
| Other: _____                | _____    |
| Other: _____                | _____    |

**TOTAL NONCURRENT ASSETS** \$ \_\_\_\_\_

**TOTAL ASSETS** \$ \_\_\_\_\_

#### LIABILITIES

##### **CURRENT LIABILITIES**

|                          |          |
|--------------------------|----------|
| Accounts Payable         | \$ _____ |
| S & W Payable            | _____    |
| Short-Term Notes Payable | _____    |
| Interest Payable         | _____    |
| Short-Term Loan Payable  | _____    |
| Other: _____             | _____    |
| Other: _____             | _____    |

**TOTAL CURRENT LIABILITIES** \$ \_\_\_\_\_

##### **OTHER LIABILITIES**

|              |          |
|--------------|----------|
| Other: _____ | \$ _____ |
| Other: _____ | _____    |

**TOTAL OTHER LIABILITIES** \$ \_\_\_\_\_

**TOTAL LIABILITIES** \$ \_\_\_\_\_

#### CAPITAL

##### **OWNER'S EQUITY**

|                       |          |
|-----------------------|----------|
| Capital               | \$ _____ |
| Less Personal Drawing | \$ _____ |
| Net Addition          | \$ _____ |
| Stockholder's Equity  | \$ _____ |
| Other: _____          | \$ _____ |

**TOTAL CAPITAL** \$ \_\_\_\_\_

**TOTAL LIABILITIES AND CAPITAL** \$ \_\_\_\_\_

## CONCESSIONAIRE FINANCIAL STATEMENT

|                     |   |
|---------------------|---|
| CONCESSIONAIRE NAME | CONCESSION NAME                           |
| PARK UNIT NAME      | REPORTING PERIOD<br>From: _____ To: _____ |

### D. STATEMENT OF MONTHLY GROSS SALES/RECEIPTS

|  |                        |                       |                      |
|--|------------------------|-----------------------|----------------------|
| Jan 20 ____ \$ _____                               | April 20 ____ \$ _____ | July 20 ____ \$ _____ | Oct 20 ____ \$ _____ |
| Feb 20 ____ \$ _____                               | May 20 ____ \$ _____   | Aug 20 ____ \$ _____  | Nov 20 ____ \$ _____ |
| Mar 20 ____ \$ _____                               | June 20 ____ \$ _____  | Sept 20 ____ \$ _____ | Dec 20 ____ \$ _____ |
| <b>TOTAL MONTHLY GROSS SALES/RECEIPTS \$ _____</b> |                        |                       |                      |

If the "Total Monthly Gross Sales/Receipts" above does not match the Cash Flow Statement "Gross Sales/Receipts," please explain below.

***The undersigned declares and certifies that the above statement and the attached Cash Flow Statement, Schedule of Depreciation, and Balance Sheet are correct.***

AUTHORIZED SIGNATURE

DATE



PRINTED NAME OF PREPARER



## **EXHIBIT F DPR 531 CONCESSION PERFORMANCE RATING**

State of California - The Resources Agency  
CALIFORNIA STATE PARKS

### **CONCESSION PERFORMANCE EVALUATION**

#### ***INSTRUCTIONS***

The Concession Performance Evaluation form, DPR 531, is used to conduct concession performance evaluations. For assistance with completing this form, refer to the Concession Performance Evaluation Standards and Guidelines. In completing the DPR 531, note the following:

- Not all categories may apply.
- The OTHER category may be used for items required by contract but not already listed, such as Business Plan or Facility Development Plan.
- Some categories have higher point values.
- Some categories are scored only as COMPLIANCE/NONCOMPLIANCE.
- The rater must comment on any rating in which the concessionaire received a score other than SATISFACTORY OR COMPLIANCE.

To complete the form:

1. Add the points circled in each column and enter the total per column for each page.
2. Add the totals per column for page 1 and page 2, and enter where indicated.
3. Add the column totals for all categories together. Divide the sum by the maximum total points possible, then multiply by 100 to obtain the PERCENT RATING. (To obtain the maximum points possible, add the excellent and compliance points of the rated categories.)
4. Check whether the concessionaire received a rating of NONCOMPLIANCE/UNACCEPTABLE for any category rating. If so, the OVERALL RATING must be either NEEDS IMPROVEMENT or UNACCEPTABLE regardless of the PERCENT RATING.
5. If Item 4 above applies, proceed to Item 6. If not, check the appropriate OVERALL RATING based on the PERCENT RATING.
6. The employee conducting the evaluation signs the form as the rater, checks whether he/she has discussed the report with the concessionaire, and submits the report to the concessionaire.
7. The concessionaire reviews and signs the evaluation within 14 days of receipt, and submits the form to the District office for processing.

# CONCESSION PERFORMANCE RATING

State of California - The Resources Agency  
CALIFORNIA STATE PARKS

| DISTRICT  |                                     |                  |                     |                              | PARK UNIT                               |                     |                        | DATE  |
|---|-------------------------------------|------------------|---------------------|------------------------------|---|---------------------|------------------------|---|
| CONCESSIONAIRE  |                                     |                  |                     |                              | TYPE OF CONCESSION                      |                     |                        |   |
| CATEGORIES  |                                     | EXCELLENT<br>(E) | SATISFACTORY<br>(S) | NEEDS<br>IMPROVEMENT<br>(NI) | NONCOMPLIANCE/<br>UNACCEPTABLE<br>(NON) | COMPLIANCE<br>(COM) | NOT APPLICABLE<br>(NA) | COMMENTS  |
| Circle the appropriate points in each category. If category is not applicable, check not applicable (NA) box. |                                     |                  |                     |                              |   |                     |                        | Explain items which are rated excellent, needs improvement or noncompliance/unacceptable. Make recommendations for correction for NI and NON rating. Attach additional sheets as necessary. |
| ACCOUNTING  | RENTAL PAYMENT                      | 8                | 6                   | 2                            | 0                                       |                     |                        |   |
|   | MONTHLY DPR 54 SUBMITTAL            | 4                | 3                   | 1                            | 0                                       |                     |                        |   |
|   | ANNUAL DPR 86 SUBMITTAL             | 4                | 3                   | 1                            | 0                                       |                     |                        |   |
|   | MAINTAINS REGISTER JOURNAL/\$ TRAIL |                  |                     |                              | 0                                       | 4                   |                        |   |
|   | OTHER:                              |                  |                     |                              | 0                                       | 4                   |                        |   |
| BONDS/INSURANCE   | PERFORMANCE BOND                    |                  |                     |                              | 0                                       | 4                   |                        |   |
|   | LIABILITY INSURANCE                 |                  |                     |                              | 0                                       | 4                   |                        |   |
|   | FIRE INSURANCE                      |                  |                     |                              | 0                                       | 4                   |                        |   |
|   | AUTOMOBILE INSURANCE                |                  |                     |                              | 0                                       | 4                   |                        |   |
|   | OTHER:                              |                  |                     |                              | 0                                       | 4                   |                        |   |
| CONSTRUCTION  | REQUIRED IMPROVEMENTS               |                  |                     |                              | 0                                       | 4                   |                        |   |
|   | TIME SCHEDULE                       |                  |                     |                              | 0                                       | 4                   |                        |   |
|   | PAYMENT BOND                        |                  |                     |                              | 0                                       | 4                   |                        |   |
|   | OTHER:                              |                  |                     |                              | 0                                       | 4                   |                        |   |
| USE OF PREMISES   | OPERATING DAYS/HOURS                | 4                | 3                   | 1                            | 0                                       |                     |                        |   |
|   | AUTHORIZED GOODS/SERVICES           | 4                | 3                   | 1                            | 0                                       |                     |                        |   |
|   | APPROPRIATE SIGNAGE/ADVERTISING     | 4                | 3                   | 1                            | 0                                       |                     |                        |   |
|   | OTHER:                              | 4                | 3                   | 1                            | 0                                       |                     |                        |   |
| QUALITY ASSURANCE   | GOODS                               | 8                | 6                   | 2                            | 0                                       |                     |                        |   |
|   | SERVICES                            | 8                | 6                   | 2                            | 0                                       |                     |                        |   |
|   | PRICES (COMPETITIVE/POSTED)         | 4                | 3                   | 1                            | 0                                       |                     |                        |   |
|   | CUSTOMER SERVICE                    | 8                | 6                   | 2                            | 0                                       |                     |                        |   |
|   | OTHER:                              | 4                | 3                   | 1                            | 0                                       |                     |                        |   |
| TOTAL POINTS PER COLUMN<br>PAGE 1 ONLY  |                                     |                  |                     |                              | 0                                       |                     |                        |   |

| CATEGORIES  |   | E | S | NI | NON | COM   | NA | COMMENTS |
|---|---|---|---|----|-----|---|----|----------|
| SAFETY  | FIRE SAFETY/PREVENTION                  | 4 | 3 | 1  | 0   |   |    |          |
|   | GAS/ELECTRIC                            | 4 | 3 | 1  | 0   |   |    |          |
|   | GENERAL SAFETY                          | 4 | 3 | 1  | 0   |   |    |          |
|   | OTHER:                                  | 4 | 3 | 1  | 0   |   |    |          |
| FACILITY MAINTENANCE  | INTERIOR - HOUSEKEEPING/CLEANLINESS     | 4 | 3 | 1  | 0   |   |    |          |
|   | INTERIOR - FACILITY MAINTENANCE         | 4 | 3 | 1  | 0   |   |    |          |
|   | EXTERIOR - HOUSEKEEPING/CLEANLINESS     | 4 | 3 | 1  | 0   |   |    |          |
|   | EXTERIOR - FACILITY MAINTENANCE         | 4 | 3 | 1  | 0   |   |    |          |
|   | GROUNDS - HOUSEKEEPING/CLEANLINESS      | 4 | 3 | 1  | 0   |   |    |          |
|   | GROUNDS - FACILITY MAINTENANCE          | 4 | 3 | 1  | 0   |   |    |          |
|   | MAINTENANCE PLAN                        | 4 | 3 | 1  | 0   |   |    |          |
|   | OTHER:                                  | 4 | 3 | 1  | 0   |   |    |          |
| INTERPRETIVE PROGRAM<br><i>(When Applicable)</i>  | COSTUMES                                | 4 | 3 | 1  | 0   |   |    |          |
|   | MERCHANDISE AND INTERPRETIVE PLAN       | 4 | 3 | 1  | 0   |   |    |          |
|   | FURNISHINGS AND INTERPRETIVE PLAN       | 4 | 3 | 1  | 0   |   |    |          |
|   | EVENTS/ACTIVITIES AND INTERPRETIVE PLAN | 4 | 3 | 1  | 0   |   |    |          |
|   | IMPLEMENTATION OF INTERPRETIVE PLAN     | 4 | 3 | 1  | 0   |   |    |          |
|   | OTHER:                                  | 4 | 3 | 1  | 0   |   |    |          |
| TOTAL POINTS PER COLUMN<br>PAGE 2 ONLY  |   |   |   |    | 0   | 0   |    |          |
| TOTAL POINTS PER COLUMN<br>PAGE 1 + PAGE 2  |   |   |   |    | 0   |   |    |          |
| TOTAL POINTS RECEIVED FROM ALL CATEGORIES $\div$ MAXIMUM POINTS POSSIBLE FOR RATED CATEGORIES $\times 100 =$ <u>PERCENT RATING</u>  |   |   |   |    |     | ARE THERE ANY NONCOMPLIANCE OR UNACCEPTABLE RATINGS IN ANY CATEGORY?*<br><input type="checkbox"/> Yes <input type="checkbox"/> No |    |          |
| OVERALL RATING <i>(Based on percent rating)</i>   |   |   |   |    |     |   |    |          |
| <input type="checkbox"/> EXCELLENT (90% to 100%) <input type="checkbox"/> SATISFACTORY (70% to 89%) <input type="checkbox"/> NEEDS IMPROVEMENT (60% to 69%) <input type="checkbox"/> UNACCEPTABLE (less than 60%) |   |   |   |    |     |   |    |          |
| RATER'S SIGNATURE _____   |   |   |   |    |     | RATER DISCUSSED REPORT WITH CONCESSIONAIRE?   |    |          |
| TITLE _____   |   |   |   |    |     | DATE _____  |    |          |
| In signing this report I do not necessarily agree with the conclusion of the rater.   |   |   |   |    |     | <input type="checkbox"/> Yes. Date: _____ <input type="checkbox"/> No   |    |          |
| CONCESSIONAIRE'S SIGNATURE _____  |   |   |   |    |     | DATE _____  |    |          |

**\*NOTE:** A rating of UNACCEPTABLE or NONCOMPLIANCE in any category will result in an overall rating of no higher than NEEDS IMPROVEMENT.

## **EXHIBIT G - DRUG FREE WORKPLACE CERTIFICATION**


STATE OF CALIFORNIA

### **DRUG-FREE WORKPLACE CERTIFICATION**

STD. 21 (Rev. 12/93)(CA ST PKS, EXCEL 4/9/1999)

#### **CERTIFICATION**

*I, the official named below, hereby swear that I am duly authorized to legally to bind the contractor or grant recipient to the certification described below. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.*

|  |   |
|--|---|
| CONTRACTOR/BIDDER FIRM NAME  | FEDERAL ID NUMBER                                 |
| BY (Authorized Signature)  | DATE EXECUTED                                     |
|  PRINTED NAME AND TITLE OF PERSON SIGNING | TELEPHONE NUMBER (Include Area Code)<br>(       ) |
| TITLE  |   |
| CONTRACTOR/BIDDER FIRM'S MAILING ADDRESS   |   |

The contractor or grant recipient named above hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named contractor or grant recipient will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:
  - (a) The dangers of drug abuse in the workplace,
  - (b) The person's or organization's policy in maintaining a drug-free workplace,
  - (c) Any available counseling, rehabilitation and employee assistance programs, and
  - (d) Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c), that everyone who works on the proposed contract or grant:
  - (a) Will receive a copy of the company's drug-free workplace policy statement, and
  - (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.
4. At the election of the contractor or grantee, from and after the "Date Executed" and until \_\_\_\_\_ (NOT TO EXCEED 36 MONTHS), the state will regard this certificate as valid for all contracts or grants entered into between the contractor or grantee and this state agency without requiring the contractor or grantee to provide a new and individual certificate for each contract or grant. If the contractor or grantee elects to fill in the blank date, then the terms and conditions of this certificate shall have the same force, meaning, effect and enforceability as if a certificate were separately, specifically, and individually provided for each contract or grant between the contractor or grantee and this state agency.

## **EXHIBIT H - PROPOSER'S OPERATION PLAN**

## **EXHIBIT I - PROPOSER'S FACILITY PLAN**

(Proposal must address the following facility improvements within the Plan)

### **Huntington Concession Facility Improvements and Repairs**

Exterior and interior paint  
Remove or repair chain link fencing at exterior storage area  
Repair exterior wood work  
Repair window shutters  
Repair doors and locks  
Repair roof area at parapet  
Repair exterior lighting  
Accessible seating in patio area  
Repair interior dry wall  
Repair interior ceiling  
Repair interior lighting  
Interior kitchen improvements per Health Dept. standards  
Electrical system repairs  
Repair HVAC system  
TOTAL COST ESTIMATE = \$45,000 (\$15,000 per facility)

### **Calafia Concession Facility Improvements and Repairs**

Accessible parking space striping and signage  
Accessible parking space curb cuts  
Accessibility improvements to shower  
Accessible drinking fountain  
Accessible patio tables and seating  
Accessible handrails  
Accessible walk-up counters and window  
Accessible gates, knobs, and levers  
Accessible restroom fixtures, handrails, and sinks  
Repair doors, windows, and shutters  
Repair locks and fixtures  
Interior kitchen improvements per Health Dept. standards  
Reflective paint on stairs  
TOTAL COST ESTIMATE = \$25,000

## **EXHIBIT J - PROPOSER'S INTERPRETIVE PLAN**